

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING

JANUARY 21, 2003

INGRAM OFFICE BUILDING
7900 HICKMAN ROAD
CLIVE, IOWA

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MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson Murphy at 10:00 a.m. on Tuesday, January 21, 2003, in the Ingram Office Building, Urbandale, Iowa.

MEMBERS PRESENT

Lisa Davis Cook, left at 2pm
Darrell Hanson
Kathryn Murphy, Chair
Jerry Peckumn
Gary Priebe, Vice Chair
Kelly Tobin
Terrance Townsend
Rita Venner, Secretary

MEMBERS ABSENT

Lori Glanzman

ADOPTION OF AGENDA

Motion was made by Terrance Townsend to approve the agenda as shown. Jerry Peckumn seconded the motion. Motion carried unanimously.

APPROVED AS PRESENTED

APPROVAL OF MINUTES

Chairperson Kathryn Murphy asked if there were any suggested changes to the December 3rd or December 16th minutes.

Lisa Davis Cook said that in the December 16th minutes on roll call vote needed to be verified on page 23 motion failed but roll call not recored accordingly. One roll call vote was not entered correctly. Amendment will be made in the minutes to reflect the correct votes cast on the South Cedar Creek rule making.

*Motion was made by Darrell Hanson to approve the December 3, 2002 meeting minutes as submitted. Seconded by Rita Venner. Motion carried unanimously
Motion was made by Terrance Townsend to approve the December 16, 2002 as amended. Seconded by Darrell Hanson. Motion carried*

APPROVED AS AMENDED

DIRECTOR'S REPORT

Director Jeffrey Vonk said he was pleased to note that the Governor has made the environment one of his four cornerstones for this second term along with the Econ, Health care and Education. He listed the environment as a key area of work opportunity and of course some challenge. Specifically within the environmental arena the Governor has challenged all of us as Iowans to work hard to eliminate our impaired waters list over the next seven years, admittedly that is a very big challenge as he and I discuss the stretch goal. However, it is not an impossible goal and will require basically a significant change from segments of our land users in terms of how we do business today in order to accomplish that goal; as well as, secondly, a significant effort to clean up certain water bodies as they stand and as they have accumulated their impairments over the years. We have a lot of work in front of us and welcome opportunity from the departments perspective to lead the debate and work with all Iowans to develop a strategy that will be successful in accomplishing that. My plan of action, and I have not yet visited with other interested groups, but we want to build on work that is already done. There is an Iowa watershed task force report that has a lot of good ideas in it and we want to pick up on a lot of that work that's already been done. Internally within the department we are aggressively working on completing a nutrient budget for each watershed in the state. We expect with redoubled efforts to have that information available this summer; at which time I plan to conduct a series of forums around the state to talk to Iowans about what we know in terms of the inputs and outputs of a nutrient watershed basis. My expectations would be that at the end of the series of forums we would have a water quality summit for the state that would involve all stakeholders and the opportunity for all interested in being involved to state their case and that would lead to the development of an action plan or strategy to accomplish this awesome goal. I expect the business community, Iowa Farm Bureau and the environmental council to participate in developing a strategy that can lead to success in cleaning up our waters state wide. Secondly, I wanted to report to you that this past week I had an opportunity to meet with a good sized contingent involved with the Iowa Citizens for Community Improvement. I told them I would come back to this group and relate to you the issues relating to this environmental protection commission they reemphasized as a group their support for local control over the siting of large scale animal confinement operations, they very strongly support strong air quality rules, again related to animal agriculture, but more broadly our approach will be based on human health risk. Then finally, they were concerned over decision made by the committee to limit discussions to thirty minutes for each party as we have a contested case hearing as being to limiting for the case to be adequately presented and also, the decision not to hold public comment during those contested case hearings. Tomorrow we were scheduled to hear two appeals on permits the department was ready to issue for new confinements. The one in the afternoon in Dickenson county, apparently all the parties concerned with this have been meeting and on Friday faxed in a request signed by all the interested parties asking to postpone the hearing date for one month. So we will not be meeting on the Dickenson site in the afternoon and it may be rescheduled for next month depending on what happens in the interim.

Kathryn Murphy, Chair, just want to make sure that the legality of the waiver that covers the statutes.

Director Vonk said he was concerned about the commission hearing within 35 days. I told them if all parties, both the applicant and the county, would sign off on this request, that we would consider that a valid request to waive that 35 days requirement and in their formal request to me they signed off and acknowledged the 35 day timeframe and acknowledged their willingness to waive that.

Kelly Tobin wondered when the water quality summit would be held, August or when. Director Vonk responded that it would probably be in early fall, probably won't do the forums won't be held until August and then the summit after that. Makes sense to take factual information to the people of the state before holding the summit.

Kelly Tobin asked Director Vonk if he could give an indication of what would happen after that. Director Vonk – no I can't, certainly the goal of having a summit would be a call to action leading to a group that would finalize the strategy or perhaps the strategy could come out of the summit. I don't know for sure at this time, but would expect to have the strategy by early 2004.

PUBLIC PARTICIPATION

Glenn, John (Iowa Association of Water Agencies)

John Glenn introduced the Iowa Association of Water Agencies group and indicated that they were just here to observe. They represent the largest water municipal and water utility players in the State of Iowa serving populations over 10 thousand. Our 30 member group serves over 50% of Iowa's population. Water assessments are in the handout. EPA handed money to the DNR to have these water assessments done, our group took care of this for the DNR. Lots of useful information came out of it. Introduced nine members present, we have both rural water and large municipal water supplies in Des Moines, Cedar Rapids, Iowa City and Coralville, Ankeny and Rathbun. Iowa Children's Water festival received a governors award

(A copy of the blue folder of information handed out is available in the department's record center.)

Heathcote, Susan (Master Matrix)

Susan Heathcote is the research director of the Iowa Environmental Council, comments are on behalf of them Issue in respect to the scoring of the matrix. She was glad to see that the issues of the sub categories and special scores within the sub categories. It is very essential that there is a balanced approach and that all issues air quality, water quality and community concerns are addressed in any matrix that is proposed for a new permit. We were concerned to see the decrease in the threshold score from the 30% that was originally proposed to 25% of the available points within the matrix within each sub category. Would like some discussion on the need to lower that score in the sub category from the 30%, in fact we had suggested it be raised to 40 % in all sub categories. Over all score of the 50% our data indicates this could be a bottom line, any lower would be a concern and if the score is too low would it even be effective.

Lisa Davis Cook – what does the council recommend for a percentage overall score?

Susan Heathcote – we recommend a 65%

Kelly Tobin – you have 80 organizations, how did you arrive at a percentage from those organizations?

Susan Heathcote – some of our member organizations made recommendations but most of them agreed with us, it was a consensus of our group. Our group operations on a consensus as well, we don't necessarily speak individually for each of our member organizations but speak for the coalition.

Jerry Peckumn – do you have a board of directors that approves this recommendation?

Susan Heathcote – the Executive Committee reviewed it. Most of the decisions of this nature are reviewed by our executive committee.

Lisa Davis Cook – is on the executive committee, all members of the organizations have plenty of opportunity to comment before the voice of the council goes out.

Darrell Hanson – as a previous at large member agreed with Lisa's statement of plenty of opportunity provided for comment.

Susan Heathcote – there is a type of umbrella group that works on environmental policy issues which includes some members that are not apart of the council. We've had a lot of input from the environmental side and we want this to be a successful tool.

McAfee, Eldon, (Master Matrix)

Eldon McAfee (represents the Iowa Pork Producers Assn. & Iowa Poultry Assn.) both had members on the master matrix committee. The major issue today is the question of, does the matrix as adopted by the Iowa Legislature allow for separate scoring in individual categories or is it one matrix one score? My organizations support the one matrix one score concept from a policy stand point. These organizations feel that this is additional regulations that these producers have to meet over and above what the law currently requires. Mr McAfee went on to discuss different aspects of how the final version of the law was arrived at by following his handout to reach item number five on the handout which is the final version of the matrix providing for one matrix and one score. The real key is looking at the history of where the legislation has come from. The legislation in 2293 removed the word complete from in front of the word application. Look again at where the legislation began and where it ended up. Second page letter B, reviewed the requirements in detail and has advised his Associations to go ahead and pick the requirements that they know they can meet, once they have selected the points then the department can enforce those legal requirements, if they are fine with them then ok, but don't take any more points that what they can meet. It is important that this matrix be clear in the rules that they mark one score under each criterion that they select and that they are not required to fill them all out. Finally, II separation distances, because of the change in SF2293 we need to keep the old tables because 2293 made a major change in expanding operations, 2293 now says that you can use the old distance and not the new distance. We therefore have three separation distance tables in the Iowa code. Those that applied up until January 1, 1999, those applied up until March 1, 2003 and those that apply after that. It needs to be clear in the IAC that those

tables stay there so that a producer expanding a site built back here prior to January 1, 1999, if they erect an additional building on the site after March 1, 2003 they should still get the original distance agreement from January 1, 1999.

Darrell Hansen asked a question on “B” on the issue of not being required to complete the entire matrix. How could someone fill out an unofficial copy and then not be held accountable for doing them. Even if they want to take a calculated risk of weakening their case by not claiming credit for everything they can claim credit for, in order to protect themselves from being excessively obligated. I’m not sure I want people to have the best of both worlds.

Eldon McAfee said that many producers feel that the more points that I can show the community I get on this site, the better this site looks. I don’t disagree with this. There are many things in the matrix that can’t change, separation distances etc. When we look back to what the law says, if you take it you are required to follow it. I just want the producers to understand this. If they take it it is a legal requirement and the law is clear on this.

Darrell Hansen spoke to the issue ability under legislative intent to have three components to the final matrix decision. Wants to clarify that there is never an ironclad yes or no answer on legislative intent unless the legislature declares its intent. This is something that can be looked at and can open the door the door to concluding legislative intent. It is not necessarily conclusive.

Eldon McAfee agreed with Darrell’s comment. If the legislation’s first version first said three scores air, water, community and been almost identical to what you’re looking at and that had been taken out I would be emphasizing that very strongly. It doesn’t say that.

Darrell Hansen that if someone wanted to be very clever and it wouldn’t be very hard to set up a system where you would get just one matrix one score. Are we just discussing semantics rather than substance?

Eldon McAfee disagreed with semantics versus substance. These are additional regulations and the law says you get to pick which ones you want.

(A copy of the Item 8, Master Matrix handout is available in the department’s record center.)

Struckman, Sara (Master Matrix)

Sara Struckman represents Iowa Citizens for Community Improvement. Ms Struckman read a one page handout statement signed by the Iowa CCI Board Chair and Vice Chair. This document outlines their viewpoint that the matrix is in any way a substitute for real local control. If the matrix has any chance of making a difference it must be geared to protect local residents and the environment, not the proposed factory farm. She asked if anyone could clarify what the Attorney General recommend in terms of sub category scoring?

Director Vonk replied that when the issue came up he made a verbal request to the AG’s office about the legalities of the department going forward with a proposed rule that would include sub categories. Their verbal response was that it was their opinion that was legally acceptable to include sub categories in the matrix.

(A copy of this handout document is available in the department's record center.)

Jordahl, Erin (Master Matrix)

Erin Jordahl representing the Sierra Club Iowa Chapter. The Iowa chapter with 5000 members statewide has been making comments on the master matrix. If the overall minimum is not higher than 50% the club feels that it won't have an effect on what producers are really doing. If this is the intent we have suggested a 75% minimum overall. We also feel very strongly that there should be minimums in the sub categories. If the legislature wanted the master matrix to look like the interim matrix we don't need a master matrix committee to figure out how this should look. Trying to determine their intent from looking at the variations of the interim matrix is a little tricky. They left it very open for what the master matrix comes up with. We support sub categories.

Biggs, Nick (Master Matrix)

Nick Biggs represents Tri Oak Foods, I'm a producer. Nick had a couple of comments dealing with the base score, the bottom line score. How many on the commission have actually done a scoring of the matrix on a site? One. In the past week I have done three. When we talk about a 50% score the three I did were all excellent sites, individual producers, wanting to build confinement units to raise pigs. The minimum score now is 430 points for passing. The very highest score reached by these three very good sites, that the community actually wanted, was 405 points. The next one was 365, and the middle one was 385. The master matrix was developed to select sites and have a good position. When I hear 60% and even 50% this is unattainable as an industry. Let's be reasonable. This is above and beyond the law that we are being held accountable to.

Director Vonk asked if he was contending if there was no way that these sites could have achieved the 50% score by doing additional things?

Nick Biggs responded that he had actually used the scores. The one that was presented where this is where the scores are now, these are the what if's. The 405 point one, if they did the worker safety program and the containment vacilities and all that, that puts them off to where they could almost break even at 445 points. The other ones, no, they would not get up to that 50% point.

Darrell Hansen asked what were some of the areas that they were not able to get points on.

Nick Biggs said that whenever you start to look at set back distances, the additional points need to be started at 1000 feet beyond where the law says. Some of these places had a house within 1900 feet. So in the set back distances they could only get 5 or 10 points.

Jerry Peckumn said if we had a category with community support would these sites have been able to get the neighbors support?

Nick Biggs responded that community support is a very good idea, but I know that it could be difficult to get neighbors to agree 100% of the time even to plant a tree. That's the struggle, it's

not documenting or showing community support. When you start asking for them to be a 100% of everyone on a distance.

Jerry Peckumn agreed.

Nick Biggs said this is part of the matrix. If you can get everyone in the neighborhood to say yeah, I want this for this person to raise pigs on their place, and 100% of the people around them say ok, even 70%. This then gets back to the issue if everyone wants it why are we talking.

Jerry Peckumn said it seems to him the committee looking at the matrix put a lot of points on proximity issues and not many points on manure management or air filters or covers. Do you think that the balance of points is out of order.

Nick Biggs didn't think that the balance of points is out of order. If the building is put in the right place you do not need the manure coverage, would not need the air filters because nature takes care of the odor. The key is the set back distances.

Jerry Peckumn said that one of the letters receive indicated there should be more choices for points for conservation efforts. Is that a position you would take too?

Nick Biggs said they look at, as a producer, byproducts of the pigs is a nutrient. The agriculture people they deal with they look at it as an asset not a liability. They are going to use those nutrients just like commercial fertilizer. Their practices of injection and conservation, they will everything they can to get the most out of those nutrients. So yes, the more environmental practices they use the better off everyone will be. We encourage that from our producers.

Kelly Tobin said he scored quite a few of the ones that are already there and that's where some of the problems were, location right of way. On any of the new ones that they were trying to put in they were able to get a higher score by taking advantage of these situations.

Nick Biggs said actually finding the right location which is exactly what the matrix is suppose to do. Put the barns where they are supposed to be.

Kelly Tobin thinks it all comes down to when the larger factories were trying to find land, the land had to be for sale or they probably didn't buy it. They didn't go out and ask. That's where a lot of it, they took advantage of what was there.

Nick Biggs said those people are looking at the different ways. They have to actually go out and look at the platte book and find sections with no one living on it. Then they go and investigate that way. We are a little disadvantaged where we have individual farmers that raise our pigs and their farm is located in Greene township of Wapello County. They don't have the financial resources to move. So whenever I do a matrix for them I have to tell them they are at 345, if the county accepts the matrix that the supervisors voted in, we won't be able to have them build the building for us. All very valid points have been brought up; but is it practical? Last time I was up I recommended 40% which I thought was generous with being able to add the things we felt were important.

Wayne Gieselman had a few comments regarding the rule making process. This has been a great process in many respects. The livestock industry in the state and the environmental groups in the state, having everyone sit down together, that in the end was fruitful to allow many to discuss their differences and try to understand where the others were coming from. I want to acknowledge everyone on the matrix committee, the Iowa Pork Producers, the Iowa State and University of Iowa both had representatives, the Iowa Environmental Council, the Iowa Poultry Association, the Association of Counties were very active with input, the Farm Bureau Federation, the Department of Agriculture, and the Iowa Farmers Union. During the whole process the Iowa Attorney General's office was represented at the table throughout the entire time, they didn't offer advice but were able to answer questions on the legalities of what could be done. Tim Benton from the Attorney General's office was at all the meetings except one. So the whole question of the sub categories came up during the matrix discussions. Beyond that Robin Pruisner has resigned from the Department and I really think it would be remiss not to say something as she represented the Department on the matrix committee throughout this whole process. She helped to drive this process and made sure that all the items that got on this list were enforceable by the Department. I want to thank her for all her work on this group.

FINAL RULE -CHAPTER 65 ANIMAL FEEDING OPERATIONS (ADOPTION OF MASTER MATRIX)

Wayne Gieselman, Administrator for Environmental Services Division, presented the following item.

The Commission will be provided with the responsiveness summary and proposed final master matrix, as required by Senate File 2293 passed by the 2002 Iowa General Assembly prior to the January 21-22, 2003 Commission meeting. The master matrix is a comprehensive assessment mechanism in order to produce a statistically verifiable basis for determining whether a county board of supervisors should recommend to approve or disapprove a construction permit application. The master matrix includes criteria that value environmental and community impacts. County boards of supervisors in counties that pass a construction evaluation resolution may use the master matrix to evaluate proposed confinement feeding operations. The master matrix includes weighted scores for all mitigating factors in the matrix and the construction permit applicant must receive a minimum threshold score required to receive a satisfactory rating.

The master matrix committee, composed of ten representatives of various environmental and agricultural groups, made a recommendation to the department concerning the master matrix content late in September. The department added further details to the committee's recommendation. Public hearings were held on December 5 & 6 in numerous locations around Iowa. Many public comments were received and the responsiveness summary, to be distributed to the Commission prior to the January meeting, will detail the department's reply to the comments received.

Key areas that the Commission must make final decisions on include:

- (1) What is the minimum passing score?
- (2) Should there be three subcategories consisting of air, water and community impacts?

- (3) Should there be a minimum score for each subcategory?
- (4) Should mitigating factors that address community support and subtherapeutic use of antibiotics be included?

(A copy of the final rule is available in the department's record center.)

Wayne Gieselman thanked Reza Khosravi and his group of engineers, and Mike Murphy and his group of lawyers for all of their valued assistance in spending time responding to the major issue of comments. The Department approached the whole matrix issue when working with this committee, is that if we can agree with a consensus decision on mitigating factors that should be included in the matrix, we will take that to the Environmental Protection Commission and have you take some action on it. The 44 items included in the matrix that went out for public comment were in fact agreed to by consensus of that group. I do not propose any changes of the mitigating factors that are included in the matrix. The bottom line issues that the committee could not come to consensus on were basically three or four separate points. First, what should the minimum score be, our public comments ranged from 0% - 100%, 50% is what the staff is recommending and is what went out for public comment. Not all sites can meet a 50% criterial, we looked at some of those sites. The three sub category issue was another statement that went out for public comment, and we had answers both yes and no that it should be there. The staff recommends we maintain the three sub categories that added together add up to one cumulative matrix score. We did lower what went out for public comment from the proposal of 30% minimum of the total points available in a sub category down to 25% and this is our final recommendation to you. These were the two issues related to scoring the matrix. The other two issues that the committee could not quite come to consensus about included sub therapeutic use of drugs or antibiotics in livestock feed rations and the demonstrated community support. Lots of comments from both sides and the staff recommends not to include either of these in the matrix. There are still a lot of unanswered questions out there on the scientific data on both sides of that issue. No clear cut definitive answer there. The demonstrated community support, staff is just not recommending that you go with that. I have a mitigating factor of number one, we have a math error there that needs to be fixed, should be 15.75 points instead of 16.75. We will fix that. Comments included some responses on some issues on the mitigating factor, what's included by interest, did the matrix committee actually intend to include all people. The interest is defined in our rules and code in the mitigating factors. That goes to Homestead tax exemption, pollution control tax exemptions, there were several issues in here that people with interest tried to satisfy that requirement. We tried to clarify where we were on that. Mr McAfee made some kosher arguments about the complete application issues. Where the staff really comes down on this is, I'll be a little forceful on this, we are not going to approve applications to this department that are not complete and don't have all the questions answered that we have to have answered. We do get arguments, and in fact they are correct, the statute says we have 60 days to act on an application. The statute used to say complete application, that word did get deleted. This version of the senate file we are not arguing that it got deleted. Did it impose another way of dealing with that by requesting a continuances, either by the applicant or the staff could impose one continuance. If the worst case comes we will deny the application and start the process again. This is a normal procedure for us to go back and forth until all of our questions are answered. We have been criticized for doing it that way, just deny the application if it doesn't have all the requirements. We have tried to address that issue with some of our changes

in procedural rules. One of the issues Mr McAfee raised in his comments dealt with separation differences in distances in grandfathering in a particular sites that are already out there. As a standard practice if a site was built in 1997 then the separation distances has to deal with the separation distances in the 1995 statute. If built in 1999 then it deals with the separation distances in the 1998 statute. We will have one more level of confusion surrounding that; but as a practical matter we have always used the separation distances in place at the time the facility was built.

Darrell Hanson asked if that was a statutory requirement.

Wayne Gieselman, yes, the separation distances are in fact grandfathered in, even for expansions.

Rita Venner asked for clarification, which is not currently a part of 2293, but if the county does not participate in the matrix, do they still have the opportunity as of right now to bring their comments and have a hearing with the EPC? In regard to revoking their permit, is that going to be taken out?

Wayne Gieselman said that county doesn't have a construction evaluation resolution. One of the issues was can they accompany the staff when we do a site inspection. The statute is clear that they can't. We did make that change and put out for public comment that they could. Asked for backup from Robin Pruisiner.

Robin Pruisiner said she believes it says that if you do not pass the construction evaluation resolution, the county can not appeal to the EPC.

Rita Venner – but they have to have the resolution in place.

Wayne Gieselman said they could still make comments only. They can not use the matrix or ask for a hearing.

Lisa Davis-Cook asked if they passed the resolution that was good for two years, but we moved it back to one year, so it is an annual passage.

Gary Priebe asked if the county does not choose to use the matrix then the farmer doesn't have to pass a matrix?

Wayne Gieselman said the county does not pass a resolution that they are going to use it, then the farmer still has to meet the basic requirements that we have here, but he doesn't have to do a matrix in that county.

Darrell Hanson asked if we had a document that's the starting point that is before us that we are going to amend or we just going to deal with this on a substitute basis. These are the changes right.

Wayne Gieselmann said in terms of all mitigating we did make some responses in some things in here.

Murphy, Kathryn, Chair

Commissioners, do we want to proceed item-by-item or do we want to take a look at the key areas and work with those and then go back and look at others? This is, we will proceed however you choose to do it.

Venner, Rita

I would suggest that we hit key issues first and then go back.

Murphy, Kathryn, Chair

Are you all in agreement that that would be acceptable.

Davis Cook, Lisa

As Wayne said in the beginning, anyway it's in the document, beginning, middle, somewhere, it talks about the procedure laid out for our hearings.

Murphy, Kathryn, Chair

Yes, I've already told Wayne that I wanted to speak to that today.

Darrell Hanson

If we're going to deal with certain issues, I guess I want to, I have a question about the sub category recommendations from the department to change that 30% to 25%. As I read the explanation that the air quality was recommended to change it to 25% because of assessment that, well the three sub categories aren't necessarily equally easy to reach and perhaps it was reasonable to go to 25% rather than 30% for Air Quality. Were the other two categories recommended to be changed to 25% out of the belief that they ought to be the same percentages for each one.

Gieselmann, Wayne

This is a complex mission. If you have 25 here, and 35 there, and 40 there, I mean to me this is complex enough without adding that factor in.

Darrell Hanson

Okay. I was just curious as to what the reason was. I guess in my opinion most people aren't going to be sitting down there calculating percentages. They are going to want to know how many points do I have to reach. On that one question of sub categories, I think it makes sense to have sub categories. I think in the long run the industry is better off if some of those community concerns are met so I would make a motion that we keep the sub category approach but and I don't know if these need to be separate issues or not, I guess I don't see a problem with dropping the air to 25% and keeping the other two at 30% cause the producers are just going to be given a number of points to reach rather than a percentage. I don't know how you want to deal with that in terms of a decision-making process. Do you want motions and then.

Murphy, Kathryn

I think that would probably be good Darrell and then I think we should reference the specific chapter or session.

Gieselman, Wayne

For the committee's purposes they did separate them into air, water, community so they could get a feel for what each of these categories was trying to address.

Peckumn, Jerry

There was a plan, a consensus at least that the balance is correct, that the balance is good, I guess there will not be anything really correct. The balance the way the points are allocated to air, community, and water was agreed upon.

Gieselman, Wayne

Yes. Anything that's in here with these points, that committee all agreed.

Peckumn, Jerry

My thoughts are that maybe because the issue is so contentious and that there is so much disagreement, personally my feeling is we should stay fairly close to what the committee recommended and I just wanted to ask you and I'd like to hear what you have to say.

Gieselman, Wayne

As a staff, that's how we represented this. We are one person of ten and ultimately you are the decision makers and it is always clear that you can change anything that was in here because that's your role, but we were very clear that we would recommend, bring to whatever they came to consensus on.

Peckumn, Jerry

I guess I'm ready for my motion now.

Murphy, Kathryn

Kelly, is this a general question?

Tobin, James (Kelly)

It's a question

Murphy, Kathryn

Okay, we'll take that first then.

Tobin, James (Kelly)

I guess my question is the three categories, the department has decided to go that way but the attorney general, what happens or could it happen that somebody files an appeal or suit against that, how legitimate is that.

Gieselman, Wayne

Absolutely. We could have an appeal filed on the basis that there is no legal statutory authority to have three sub categories. And that may be successful and it may not be successful.

Tobin, James (Kelly)

And if it's successful then we go back to having one score.

Gieselman, Wayne

Yes.

Tobin, James (Kelly)

Okay, that's what I want to know.

Davis Cook, Lisa

I have another general question.

Murphy, Kathryn

Okay, Lisa.

Davis Cook, Lisa

So, as you said before, there are the minimum separation distances and the minimum laws that are in the code right now. So in essence the matrix is an ability for the counties to have something that goes above and beyond the minimum requirements that are in the code. Am I on the right track?

Yes

Davis Cook, Lisa

So would it be safe to say that, you know when we are talking about whether or not all facilities pass or only a percentage of facilities pass, this document, it's not meant that all facilities will be able to pass. Right?

Right.

Davis Cook, Lisa

But it's seen as something that is above and beyond so the fact that all facilities can't pass is in essence what this is meant to do.

Gieselman, Wayne

There are differences of opinion even on that point, but yes, the matrix are our requirements above what the statutory requirements are that we have to look at when we look at these. Anything that these folks do in this matrix is something beyond what is the minimum requirement of the law.

Davis Cook, Lisa

It was more a clarification that we shouldn't be surprised if all facilities can't pass this because it is a means for having some facilities do more than what is minimally required.

Gieselman, Wayne

That's right.

Davis Cook, Lisa

If everybody can pass it why even have it.

Gieselman, Wayne

Everybody that does make an application in all likelihood is going to pass the matrix. Because they are going to look at it before they ever go to the trouble of making that application so the perception that is going to happen is this hasn't done anything when in fact, Mr. Biggs might know, it probably has done some things. Some of those things just will never be explored because they know they are not going to pass the matrix or they can't. That's just something we just have to deal with.

Priebe, Gary C.

What are your thoughts on Mr. Biggs comment that he had three good sites and they can't pass the matrix. It causes me concern if we have, if his statement is true and we have what is considered to be a good site and it still can't pass. What are we going to do to the hog, now the K&S in Humboldt, that didn't have to pass the matrix, right?

Gieselman, Wayne

Probably had to do an interim matrix

Priebe, Gary C.

How did it do on the interim?

Khosravi, Reza

The interim matrix? I can't remember what they passed. They achieved at 100 points. That was what they needed to achieve. I don't know what they got. I can look at the bonding.

Priebe, Gary C.

No, that's fine. It just if we end up with good sites that can't pass it bothers me because we are stifling an industry in this state and you know the way I understand it, every industry in the State of Iowa is now going to have to meet this whether it's hogs or producing tires. Right?

Gieselman, Wayne

No, you're thinking air quality standards as opposed to the matrix. The matrix is just for confined animal feeding operations.

Priebe, Gary C.

Okay.

Darrell Hanson

I think it's inevitable given the fact that there are some gray areas, there are some debatable areas and it's impossible to write one system that applies to every livestock confinement operation perfectly that; the way that I look at it, if you were going to have a system that you were 100% sure that every bad site would be prevented, you are going to have some good sites that are going

to be prevented too. If you are going to be 100% sure that all of the good sites are going to be approved, you are going to have some bad sites approved too because it just isn't so cut and dried; you know, here's the dividing line. I guess the real question is which mistake would you rather make? And that's an open question, but this is a pretty blunt instrument. It's not a scalpel.

Priebe, Gary C.

Is there any validity in some of the comments that I read that we should back that off to a 40% overall score and a 20% on each subcategory. Are we going to shoot ourselves in the foot by doing that. Do we want to start out by doing that? Do we want to start out to where we know we have problems.

Gieselman, Wayne

I think that's a judgment you have to make, Gary. Sites can pass at 50%. More sites will pass at 40%.

Priebe, Gary C

Fewer sites at 60% and we have recommendations across the board.

Gieselman, Wayne

You could take the one that said they should achieve 90% and use that. I don't think that's reasonable.

Priebe, Gary C.

Well, it concerns me because they're already passing all of the basics that we had in rule for years and granted some of these sites should not have been built where they are built, but by these scores are we going to shut down some good sites.

Gieselman, Wayne

Well, I'm not sure, I really can't answer that. I don't know what your definition of a good site is, nor some of the people behind me because that's kind of a, if it's 1800 feet from my house, I may not think that's such a good site but it may pass the matrix.

Priebe, Gary C.

I'm sure that 1,800 feet from my house wouldn't be acceptable either.

Peckumn, Jerry

I guess that the question that I'm a little perplexed about, Wayne, is like #11 is air quality modeling results demonstrating the noise level less than 2% of the time for residences which is two times the separation distance. It's only scored with ten points and it seems like if a good site would meet that, that that would be something that they'd have comparable points to on some of the other categories. Why is it, is it something that is very difficult to meet or difficult to measure?

Gieselman, Wayne

I'm not sure that I can probably answer that one. I wasn't involved in that discussion. You're kind of talking about odor regulations and we have no odor regulations. Odor is kind of a

subjective thing as to what offends me doesn't necessarily offend you and vice versa. That doesn't really answer your question. I doubt that I can answer your question.

Peckumn, Jerry

It just seems like if more sites would be able to pass if they were able to get more points on something like this. That is why I'm kind of surprised that there is 10 points for this and say 30 points for separation of 300 feet from the nearest thoroughfare. It's just another opportunity. It seems like there aren't enough opportunities in here to me for confinement operators to choose something they can get points on and pass and improve the environment.

Gieselman, Wayne

All I can really respond to you with is that I know this committee debated for several hours. It was a thought out and a probably hotly contested point and they were able to come to a consensus at 10's.

Murphy, Kathryn,

And I do think that is something that we do need to take into consideration is the amount of time and work that those committee members did take in order to come up with those individual numbers.

Venner, Rita

Wayne, I agree with that, you know. We have to respect that; however, I agree more with what Gary said. This 2293 is going to change the entire industry. The factory farms are going to look at this and they are going to change their way of citing, but they have deep pockets. They can put filters on their for their air quality and they can have a choice of their location; but I am afraid that these family farmers that are trying to keep on the farm and want to build and extra confinement so they get a little bit more volume so they can continue to exist, they are going to find this matrix very inhibiting. They are the ones that are perhaps going to back away from even continuing with the industry because the matrix is impossible for them because they don't have that kind of money to put all those extras on. They are willing to come up with the regulations that have to be but when it comes to a lot of extra regulations, I'm afraid that they aren't going to be able to do it. And if they can, I would suggest, I would even like to see probably 30% start walking, not running with this matrix and then if it's successful and there are a lot of people we can always up the regulations if we want too or up the amount of points that we require, but I'm afraid that we are really going to be hurting those family farmers out there. And there's a lot of them in my country and I'm in the trenches and I know what's going on with them but this matrix is scaring them to death and they are looking at, and they are not going to fill it out if they know they aren't going to pass it. They are just going to say forget it. And I've seen too many farmers already do that because of the competition we have out there. I really truly think that I'd probably vote for 40 but I would even like to see it lower than that just to start out and tell them that we are concerned about them.

Murphy, Kathryn, Chair
Darrell.

Darrell Hanson

I'm going to make a motion that in the introduction of the matrix where the beginning of point C where the scores are set forth there and I was originally going to give some numbers here but I didn't realize that if we changed some of these things that's going to change the points available so I'll move that the air category, air sub-category points be calculated at 25% of the available points. I'm not going to make any motion on the other two. I don't think the other two need to be adjusted just because this one is, because they are points and not percentages anyway.

Tobin, James (Kelly)

What's before you I think has 25% for all three sub categories now. It was purposed to you at 25%.

Darrell Hanson

Okay, then in that case I will move to raise the other two to 30% then.

Murphy, Kathryn, Chair

Do we need a motion prior to your motion that we actually accept the sub categories? Is that something that is of issue.

?

You could do it either way.

Priebe, Gary C.

That makes sense to start with the more broad and the work into the, what page are you on Darrell?

Murphy, Kathryn, Chair

It's the start of the matrix. Appendix C.

?

Is that part of your motion?

Hanson, Darrell

What I am trying to get at is I tried to incept the departments recommendation to drop the air sub category to 25%, but not on the other two.

Townsend, Terrance

So part of your motion would be that we would have three subcategories.

Hanson, Darrell

Well, we could do it either way. I would just, some people before they decide whether they want the sub categories, they would like to see what they are going to look like. I was going to go the first direction, which was let's see what they are going to look like, then decide if we want them.

?

Do you want to set the motion on the matrix, although we already have a motion on the floor don't we.

Murphy, Kathryn, Chair

That's totally up to you all. I would be ready for you to review that

Hanson, Darrell

I was going to move that the sub category scores be calculated at 30% for the water and community impact subcategories and 25% of the air subcategory.

Priebe, Gary C.

So we are already there on the air though.

?

Right. But whatever it takes to get us there.

Priebe, Gary C.

So you are changing community and water?

?

Yeah, raising it back to 30%, which is what it was originally.

<i>Darrell Hanson made a motion to move the sub category scores be calculated at 30% each for water and community and 25% for air. Terrance Townsend seconded the motion</i>
--

Murphy, Kathryn, Chair

Community and water is at 30% and air is at 25%, is that right.

Townsend, Terrance

I'll second that.

Murphy, Kathryn, Chair

Okay. It's been moved and seconded to have the subcategories, community at 30, water at 30, and air at 25. Is there further discussion or questions?

Townsend, Terrance

I think that makes sense. It also makes sense that we have the score rather than a percentage up there so at least once you figure out what's at the very end of it that

Venner, Rita

So Kathryn would this replace the 25, 25, 25?

Murphy, Kathryn, Chair

Yes. The way the motion states, that would replace 25, 25, 25 so that it would say well, looking at the matrix the air then would be 25, the water would be 30, and the community 30.

Hanson, Darrell

And it doesn't address the issue of 40% versus 50% for the total. That would be a separate issue. The other thing is that since we're starting with this document, if we don't actually have any motions, as I understand it if we don't actually have any motions relating to subcategories versus a total category the sub categories are in here; so unless somebody moves to take it out, they're in. So if you didn't actually want sub categories you'd have to move to take those out.

Murphy, Kathryn, Chair
Correct.

Tobin, James (Kelly)
So this doesn't change the 432 points?

Murphy, Kathryn, Chair
No, that's separate. We are actually working on your introduction, item 4, we're working on #2 at the bottom, 2 & 3 thank you. Any further discussion or questions.

Venner, Rita
I just have one comment. I'm wondering if the question might be asked: Is water and community really more important than air?

Hanson, Darrell
In my opinion the issue isn't so much as to which is more important. It's that the hurdles to jump over to get points in the air category turned out to be harder to meet than the other two, and if anything, community impacts might be the most important but it is easier to get points in those other two fields so the threshold should be, it's logical for the thresholds to be different just because we made the criteria so much tougher in the air section so that's the one that's really made hardest for them to meet. To me it doesn't make sense to raise the other two just because we happened to lower the one. I'm sorry, it doesn't make sense to lower the other two just because we lowered the one. So if we find out that the air criteria would be relatively harder to meet than the other two so we lower the criteria; that's not criteria to lower the other two criteria also.

Tobin, James (Kelly)
Wayne, your staff thought it ought to be the same?

Gieselman, Wayne
My only reason is I was thinking it as a percentage basis, thinking simplistically, but going with a total point thing makes more sense anyway. We can fix that. That's where I was coming from.

Hanson, Darrell
That's kind of an arbitrary decision which ever you pick anyway.

Gieselman, Wayne
My only reason is I was thinking it as a percentage basis, thinking simplistically, but going with a total point thing makes more sense anyway. We can fix that. That's where I was coming from.

Hanson, Darrell

That's kind of an arbitrary decision which ever you pick anyway.

Gieselman, Wayne

The 30% was as arbitrary as, I'm sorry, but it was, as 25.

Priebe, Gary C.

Are you changing it from a percentage to a point.

Hanson, Darrell

No. It's a percentage. My point is that since the average person when they fill this out is going to look at how many points they have to figure and not what the percent they have to meet, if the argument for dropping the other two from 30 to 25 was only because of simplicity so they would all be 25%, if you look at this you never see the figure 25%, you see points; and so there may be good argument for lowering the air down to 25% instead of 30 but I guess I didn't hear a good argument for lowering the other two down to 25% so I was to moving to keep them at 30. But again as Wayne pointed out, either one is an arbitrary figure. We don't know what the magic number is so. There is no science to picking this number.

Murphy, Kathryn, Chair

Any further questions or comments?

Davis Cook, Lisa

I was just going to say, the reason I asked Wayne about what's behind this matrix is, I tend to agree with the people who have said that the percentages should be something that it means something to pass. I worry that the farther down we pull the percentages, the more meaningless this is and so I won't support the percentages being that low.

Murphy, Kathryn, Chair

Are we ready for the motion? We do have a second.

Peckumn, Jerry

I seconded.

Murphy, Kathryn, Chair

The motion on the table then is to change the subcategories in the matrix for community to 30%, water to 30%, and air 25%. All those in favor please signify by saying aye. Roll call vote: Jerry Peckumn, aye; Lisa Davis Cook, nay; Darrell Hanson, aye; Gary Priebe, nay; Kelly Tobin, aye; Terry Townsend, aye; Rita Venner, nay, and Kathryn Murphy, nay. We have four votes motion does not pass.

Murphy, Kathryn, Chair

Okay. We can continue with what we want to do with this one which would probably be the best, my best recommendation since we are involved in that.

?

Do what Kathryn?

Murphy, Kathryn, Chair

Continue with how we want to address the three subcategories consisting of air, water, and community and a minimum score for each since we are working on that rather than something else.

Venner, Rita

Did you want to go back to #1 then the minimum or the

Murphy, Kathryn, Chair

Whatever you all would like to do.

Peckumn, Jerry

Well, I kind of agree with Lisa and Rita and Gary. I'm concerned about family farmers not being able to pass the matrix. It seems the biggest problem is the imbalance because existing sites that are too close or don't have enough options to pass the matrix in other areas. I don't know what to do about that at this point.

Priebe, Gary C.

I'd like to see us walk before we run. We can always change it. I'd like to see each category go to 20/20/20 and then let's try a 40% on the total, see how it works, let's walk with it for a while and see if it can even work this way before we start shooting everybody in the foot. And I don't know, this is probably going to go nowhere, but I will move that each category be scored at 20%

Venner, Rita

Each sub category?

Priebe, Gary C.

Each sub category at 20% and then a 40% total to pass the matrix.

<i>Gary Priebe made a motion to approve each category with a score of 20%, Rita Venner seconded the motion.</i>

Murphy, Kathryn, Chair

Okay. Discussion?

Priebe, Gary C.

They already have to meet all the state rules that we've had for years.

Vonk, Jeff, Director

I'm going to offer a comment if you would allow me.

Murphy, Kathryn, Chair

Absolutely.

Vonk, Jeff, Director

I wasn't going to say this but I think it's important. We all have conversations, some of them official, some of them unofficial. But I did have a phone call. One of the larger pork producers, one of the larger integrators of the state and the discussion that I had with that person was along the line that he went out and looked at eight sites and had his folks consider the proposed matrix and his words were all eight of his sites passed and that when he personally visited the sites there were several of those that he would not build on because of concerns that he had. He's not here to testify, I'm not sure that he would want to testify, so you're going to have to take my word for it that we had this conversation. I think the work that Robin did in analyzing different sites and I certainly can't contest the testimony that you heard earlier. I mean, I believe that that's true, and I think that at some time we are going to have a hard time when we talk about walking before we run. Knowing what the impact of this is, as Wayne talked to you just a little bit ago. I don't expect we are going to get, no matter what the commission decides to do, I don't expect that anybody large or small is going to invest the time in going through a formal process in submitting a matrix that won't pass. So how will we know? I don't know that this helps you in your deliberations, but the bottom line is there was an intent here to let in the legislation, a committee met and I commend Robin and the rest of the staff for the job that they have done in trying to pull this proposal together. I just want you to be aware that there are other sides to this discussion about walking and running than maybe what you have heard so far and my question to you as commissioners is help me understand how we'll know as a department when you ask us to evaluate the effectiveness of this, because fully we will expect sites to be contested because of the nature of the business. I'll expect that's not going to stop. And fully I don't expect people to invest time in trying to go through a system that they know up front the matrix isn't going to work. So it's a dilemma for me as the director concerned about the environment and public health, trying to balance those concerns with the economic impact of the environmental protection. I would caution you, don't crawl on this. There was a reason we went through 2293 and this was a key part of it. People were clamoring for additional inspection and review and site analysis and this was the effort that was put forth so let's walk, let's not run, let's not crawl. As you think through the discussion of this in the future.

Yes, Kelly.

Tobin, James (Kelly)

I guess I see this, what you're asking for by lowering this as going to help the wrong people. I think it's going to help, I guess I make the decision that factory farms and family farmers. The problem hasn't been the family farmers, it's been the factory and when you lower this you're helping the factory farmers more than the, in my opinion, so I guess lowering this is the answer, but keeping it in that level I think will help as much as anything.

Venner, Rita

Well, I don't think anybody knows how it's going to work. I mean none of us know what the impact is going to be, but I guess my opinion is that if we want to help the family farmer, especially with the siting. Many family farms have no choice for siting. They've got land where it's going to be. They aren't going to get up and move their land. There's no way they can do that. So there's no way that they can improve, especially in volume. I can't see where we are helping the family farms with this because a lot of them have enough money to put all the things

in place, the air quality regulations the filters, the stacks that they need to improve the air. They have the money to do that, so I disagree with you there, Kelly, I can't see where it's going to help the factory farms and not the family farms.

Hanson, Darrell

I guess when you look at how is the department going to evaluate this, it will be easier to know if the regulations are too low than if they are too high, because if they are too lax you will know that okay these sites should have been improved, if it's too high you'll never know because you won't know who's applied and yeah that would be a difficult. The 50% was an arbitrary stab to put this thing out to hearing, but we know that wherever you set it say between 35 and 65, you're going to have some hard cases in there so it's a question of which error are you more comfortable with and I guess I'd prefer a little higher than 40% so I'm going to stick with the 50%. I'm not sure the factory farm versus family farm is a useful distinction to be talking about here because we shouldn't be using environmental regulations to effect the structure of an industry, we should be looking at the environmental impact of the industry regardless of how the ownership is structured and I guess I'm more comfortable with the 50 than I am with 40 but we have to recognize that it's going to be an arbitrary decision no matter what we make and there are going to be some hard cases wherever we set that percentage. I'm going to pose an amendment but again there is no science about picking these percentages.

Townsend, Terrance

A lot of work went into both the matrix and then in determining where does it make sense to put it. I guess I'm, as Darrell said, I think we need to be looking more at the environment rather than this group will be okay, this group won't be., this is the group we don't care about, okay we'll judge everything based on what it's going to do to impact that one more than this one. I think I agree with Darrell. I think we need to go at least to 50%. That's where I am right now.

Peckumn, Jerry

My thoughts are that the sub categories at 25 or 30 are probably fine. When I look at this I look at so many points on proximity that seems like if we are going to improve the environment we almost have to go to 55 or 60% to get any choices beyond separation distances so I share your concern, Gary, we don't want to stop everything, but I'd like to see an improvement in the environment in this.

Murphy, Kathryn, Chair

Do you want to take a vote?

We have a motion and a second on the floor for each sub category at 20% and 40% for the total to pass the matrix. All those in favor please signify by saying aye. Roll Call vote: Lisa Davis Cook nay, Darrell Hanson, nay, Gary Priebe aye, Kelly Tobin nay, Terrance Townsend nay, Rita Venner aye, Jerry Peckumn nay, Kathryn Murphy nay, motion does not pass.

Murphy, Kathryn, Chair

We will take a break until 1:00 p.m., but when we come back my suggestion is that we look, , commissioners, to the response to the comments as it has been handed out to us going through in an orderly fashion if we have something we want to make changes to we can do that at that time

and if we do not wish to make any motions for that then that will stand. And go for what we have given as suggestions, perhaps as an orderly way of addressing all of the areas that have been sent to us in the comments of response. . It kind of gives us a framework of areas to address including the key areas that we need to. Not that we need to have a specific motion for each one of those, but we can go page by page.

Priebe, Gary C.

Everybody think about and Darrell said it, and several others, that we are just using an arbitrary number. Think about what we're doing to a major industry in the State of Iowa. Do we know what we are doing to this industry? Are we shooting the little guy in the foot? Are we allowing the large one to put it wherever he wants to? Or are we going to do what we hope we're going to do and everybody keeps saying it's just an arbitrary figure. Really scares me when we start passing rules that is going to affect an industry this size in this state where we have no idea what this arbitrary figure is going to do.

Murphy, Kathryn, Chair

Session to order. We are going to begin with item #4 again, or continue, not begin, continue with item #4, commissioners, and as we talk about, if you find in your packet for item #4 under response to comments on the proposed changes for this chapter, I think we will look at item 1 and look at that first page and Murphy, Mike is going to give us some information on that so if anyone wants to make any changes on that we can do that and then we will continue forward in our packet. Mike.

Murphy, Mike

Okay. I think it would be easiest if in addition to that document you have this one which is what the final rule will look like. If you have this to refer to I can show you where some of these things appear in the rules.

Comments to item 1, which is the rule. I'm going to refer to this as the rule document. Starts out on page 4 of that. It's basically amendments to existing definitions and then addition of additions of definitions and in all cases I believe all we are trying to do is incorporate changes from the code that were made to our definitions and the first comment deals with the definition of unformed manure storage structure and that's on page eight of the rules and they are suggesting that it's confusing to delete the word earthen if you are on the last line there before the word aerobic and again I see this is exactly what the code did to the definition so for that reason alone I don't think we need to change that. The suggestion is that by striking earthen it makes it confusing because there are both formed and earthen aerobic structures, but I guess additional comment that definition includes the term other than a formed manure storage structure so that is specifically accepted so to me there shouldn't be any confusion there and again it's consistent with the 2293 so we are suggesting no change there. .

The second comment is on item one, dealt with the definition of animal unit and animal unit capacity. Animal unit capacity is on page eight at the top and animal unit is on page six. The comment suggests that it is not clear that when there is more than one category of animals, for instance swine and dairy cattle, it's not clear that you add up the totals. I guess to me, again, we just didn't make the changes to the code name for one thing and I think it's clear on page six

where it says based on the product of the number of animals of each category I guess it doesn't use the term "you add them up" but it's pretty clear to me that that's what you do. We're suggesting no change but if you think we need to add some language to make it clear that you add them up we'd be glad to add it.

Townsend, Terrance

Animal unit capacity says determine the maximum number of animal units so wouldn't you think you would total everything to get that. I guess I don't see a problem with that.

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It says multiplying the number of animals in each category.

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If there is a change we'd just say based upon the sum of the products multiplying the number of animals in each category.

Murphy, Mike

Hearing no motion, I'll move on. Okay, the next item we discuss was on item 4, page 11, subrule 55.10.1 and again all we did was put in the language that the code added to this, but the comment was that the term county officer is not clear and I guess we felt it would do no harm, our intent is that anybody that the county says can receive it can receive it; anybody that's in county government so that we are suggesting to change the word officer to official or employee in that rule.

Venner, Rita

Mike, just so we're clear, if you've recommended a change in this document here, it is already incorporated into the rule document; correct?

Murphy, Mike

Yes. So I guess I don't know how you want to proceed on these. I think if you want to, if you think the issue is important enough to take a vote on, go ahead and make a motion.

Murphy, Kathryn, Chair

That's what I think. I think, commissioners, if you feel that something, this way we are going through everything, but your lack of a motion means you agree with what is in the document.

Murphy, Mike

The next comment deals with 65.10.2 on page 12 taking issue that we need to ride herd on the county to make sure that they publish notice. That got us into trouble; and it started some more trouble when we started denying or delaying permits because the county hadn't done that, but we think we've worked through that. There is the potential that the county won't do what it's supposed to, but we feel we have the ability to deal with that if it comes up, but we've been advised that it is our responsibility to make sure that that hoop has been jumped over or jumped through or whatever so we're not recommending any change to that rule.

Murphy, Mike

Next one is a significant issue; however, I think I have heard that they will go along with what we're recommending -- 65.10.3 which begins on page 14 of the rule package. I made a comment earlier that last month we adopted a new rule 65.10.3 which bumps all of these rules up one and so when we refer to a number here, it's referring to the old rules and I guess we just need an understanding that we are going to make the corrections on what the real number is. Okay. The issue on 65.10.3 is whether a county can designate an employee and have a right to go on site inspections when they haven't gotten the matrix system and the commission wanted us to purpose a rule such that they would have the right. Most comments that we got favored that that the county be allowed to go in any event but our feeling is that the law is clear there that we can't. They added this language to the effect that the county has to have passed this resolution in order to do that. That coupled with the fact that we don't feel that we can give people right to go on a private individual's property without some authority that is pretty explicit so we are recommending changing that rule. I see there's a typo there about the middle of page 4 of this document; the recommendation of the response document. Okay on page 4 here where it says the county may designate a county employee to accompany a department official during a site inspection -- there should be a period instead of a comma there then, in such cases the department shall notify the county board. We recommending that change be made in the final rules.

Murphy, Kathryn, Chair

If we are looking at changes on this, we will need to vote on that at some point in time, is that correct?

Murphy, Mike

Either way is fine with me but I think our understanding is was if you want to discuss these in more detail and make a motion, that's fine, but if you're in agreement with the proposals we will just work through them without a motion. 65.10.4 which begins at the bottom of page 14 of the rule document and in the middle of page 4 of the response document. We had a discussion on that this morning on whether or not the word completed ought to be in there with the respect of to a permit application and our review of it. I guess we did feel not only since the legislature took that word out that the went further than that and actually provided procedures for extending the time periods. We felt that probably was their intent so we are recommending taking the word complete out of the rule; however, we still have some concerns about us having a complete application and if we had demanded complete application and it comes up to the deadline we are going to handle that just by denying permits but we thought we should put something in the rule to make that clear, so we are taking complete out and add that language that is underlined in bold on page 4 of the response document. That's found at the end of the larger paragraph on page 15 of the rule document. Also in 65.10.4 there are several comments about the department's use of the term preliminary determination feeling it was inconsistent with the code. I guess in general we feel that this is necessary based on the swinegraphics case and the advice we got from the attorney general about if we issue a final permit and then the commission decides to change that decision, they have to revoke the permit so we feel in the long run this is a more expeditious and a clear procedure for the people. It gives them their right to appeal if they need to but also in the long run it makes for the quickest decision. Given all the decisions that we have seen to follow. I'm going to wait and explain a little more the changes I want to get down to the bottom of page 5 in the response document. One of the suggestions or comments was that in those cases where the county is not going to be involved, not going to have a right to appeal, that we should not

make a preliminary determination, but to make a final staff determination because all we are dealing with is a permit. If we issue the permit they can appeal conditions if they want. If we deny the permit they can appeal the denial going through the normal processes. There really isn't a need to make an extra step there. We agreed with that comment and

Venner, Rita

Can I interrupt you there for a little bit?

Murphy, Mike

Sure.

Venner, Rita

But, they can make comments though.

Murphy, Mike

Right.

Venner, Rita

So if you don't make a preliminary then their comments wouldn't

Murphy, Mike

We can still take their comments into consideration when we are making that decision, but if they make comments and either they aren't relevant comments or they don't in our opinion overcome, I mean our only consideration at that point is whether that meets the requirements of the department and if we make a decision again they can comment and we need to look at those comments, but if we go ahead and issue the permit for example, the county can't appeal that, they can't demand a hearing so we don't see any need to make that a preliminary decision because they can't appeal so we in that case will make it a final decision.

That's been one of the main issues throughout here was whether, and I think the law is clear, that the county has to make a decision in January of every year as to whether they are going to be a part of this process or they aren't as far as really into with the matrix and if they aren't they give up certain rights so basically in the rule document it's at the bottom of page 15 where we make it clear that if the county hasn't opted into the system we will issue a final decision to the applicant and then the rest of the rules there really isn't a lot of changes from what was proposed. This makes it clear that the board is in the system and they recommend approval to go down one if they are in the system and they recommend disapproval based on the matrix. There really is no changes in those aspects of the draft rules. The biggest one, let me see here, the next one starts on the bottom of page 5 of the response document and in the draft in the notice of intended action we had a provision in rule 65.10.8 that basically said if the county had demanded a hearing and the applicant didn't participate in that hearing or didn't demand a hearing, the commission made a decision let's say to deny the permit, it provided that the applicant would at that point have a right to a contested case appeal. The comment was to the effect that this was confusing, basically can lead to some legal problems but the applicant didn't exercise his right to contest the case here. I think the biggest change we've made in the procedures here logically makes sense. I think it's legal and best affects the rights of everyone is that where the county is

in the system they have a right to appeal, we are going to issue a preliminary determination; the county then can demand a hearing; according to 2293 the applicant can also demand a hearing; we're making the procedure that the applicant can wait. The county has 14 days to make it known that they are demanding a hearing. In many of the cases we've seen, the applicant isn't going to want to demand a hearing unless the county is demanding a hearing, so if the county doesn't demand a hearing within 14 days and the applicant hasn't demanded then the case is over. The permit or the decision becomes final. In those cases where the county demands a hearing, we are saying the applicant can wait till that point to make a decision as to whether they want to jump in. Then at that point they also have to decide whether they want it to be a contested case hearing or they just want it to become a case hearing in front of the commission and then once it goes through, let's say it's to the choices to just do it in front of the commission once the commission's choice is made that is the final decision of the department. The next step if one of them wanted to challenge it would be to go to _____. There wouldn't be a contested case come up at that point. The other case if the applicant if the demanded a contested case decision upfront that kind of just, all of this stuff goes away and we just proceed to the normal administrative law judge hearing so forth. That's in a nutshell the changes we made in procedure and there is another issue and I know Kathryn wants to talk about it as far as to how the commission conducts that hearing, but I'll leave it at that.

Murphy, Kathryn, Chair

I think Lisa you wanted to visit that section also, 65.10.8 didn't you.

Davis Cook, Lisa

Was it that section or was it farther

Murphy, Mike

There is more on 65.10.8 but I haven't gotten to that yet.

Davis Cook, Lisa

We can keep going through it in order.

Murphy, Mike

I think that is the next item. The comment was that we shouldn't limit oral presentation to one representative from each county applicant department but we should either consider allotting, one suggestion was allotting a specific time period and letting them decide how many people they wanted to fit into that time structure which is kind of the direction we've gone in the hearings we have set for tomorrow. I guess our response is that in that respect we weren't really posing a change. The current rule says one representative from the county applicant department, unless otherwise allowed by the commission so it's really kind of flexible now for the general party. I guess our real recommendation is not to tinker with this one, just leave the rule as it is or as it was proposed. On the other hand you have kind of gone the direction of setting a time period and allowing the applicant to choose how many people they want to speak for them, or not the applicant, all true parties, so I guess we're throwing it up in the air, whatever direction you want to go. We did put some suggested language in on page 20 of the rule package, I guess maybe the sky's the limit here. It's sort of your discussion and how you want to clarify that rule.

Davis Cook, Lisa

Mike, just so we're clear, what it's saying is that all participation before the commission will be limited to time periods specified by the commission and unless otherwise determined by the commission to arguments by one representative so with the underline there is some changes, because before it didn't talk about time limits.

Murphy, Mike

Right. We're not necessarily recommending that, but I guess in response to that one comment, this is language that could be used that we are suggesting.

Davis Cook, Lisa

So the way it's written here there will be time limits, from what it says here, but we have authority to specify how long. And it will be one representative from each, the board, the applicant, and the department unless we determine to allow more than one.

Murphy, Mike

The hearings set for tomorrow. I guess I'm saying that this is still kind of new territory for the commission and kind of feeling their way through this, what is the best procedure should be so probably to me it would be easier to leave the rule the way it is and keep working through it, but if you think you

Murphy, Kathryn, Chair

And it's general enough the way it's proposed that we can make changes if we feel it necessary. I guess that was my concern.

Davis Cook, Lisa

And this doesn't prohibit public participation, or does it?

Murphy, Mike

It doesn't say one way or another.

Hanson, Darrell

In a sense, the actual hearing doesn't have a, there isn't a public participation as a part of the hearing. Members of the public can participate if they are speaking on behalf of one of the three parties.

Davis Cook, Lisa

But we've had public participation at other hearings.

Darrell Hanson

Right we can allow it, if we choose.

Murphy, Mike

Your procedural decision last month on the two that are scheduled for tomorrow said no public participation, but this rule really doesn't say that .

Davis Cook, Lisa

I guess my big concern is that it doesn't prohibit public participation, because I'm still of the mind that we should have public participation.

Murphy, Mike

It doesn't prohibit it, but on the face of it you have to make a decision that that it should be allowed in the case. So I think on this one I would ask for clarification from the commission whether you wanted to go with this added language or that we included in the rule document or just leave it the way it was.

Darrell Hanson

Personally I think it is better to put it in because it just makes it clear that we do have the power to set time limits.

Townsend, Terrance

Yes.

Murphy, Mike

That was a suggestion of one of the comments although the comment went a little farther than that and basically suggested we go to time periods and not make a statement on how many representatives.

Murphy, Kathryn, Chair

But it says, unless otherwise determined, to argument by one so that leaves it open to the commission to make a determination that they want more than one as we go through them which I guess personally I think it is important not to limit ourselves, because you know as we've talked we are just feeling our way through this right now. I'm sure we are going to want to make some changes. Some things are pore important than others

Tobin, James (Kelly)

Some things are more important than others, or more critical I think too to the area or community. In other words you might have one that it wouldn't take long to do and you might have others that have a lot of problems.

Murphy, Kathryn, Chair

Except in my opinion eventually we should have the same for everyone.

Tobin, James (Kelly)

Yeah, right.

Murphy, Kathryn, Chair

I understand what you're saying, Kelly, but I think in all fairness to everyone in the state, I think as we, you know, perfect what we are doing in our procedure I think it should be the same for everyone.

Tobin, James (Kelly)

But you have the authority here to say yes on one and no on another one, don't you.

Murphy, Kathryn, Chair

We do as a commission.

Tobin, James (Kelly)

That's what I am getting at.

Vonk, Jeff

Are you planning as a commission to make that determination on a case by case basis for everyone.

Murphy, Kathryn, Chair

No.

?

We'd prefer not to. It'd be a lot easier not to. We just had a criteria made, a lot easier.

I think we need to, my thoughts are we need to come up with something that's fair to everybody and is fairly consistent, but I'm concerned like Lisa is with limiting the public participation too much. We may have gone too far last time.

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Priebe, Gary C.

Should we set a time limit to, I thought originally what the chair had proposed was 30 minutes for each entity, you know, 30 minutes for the county, 30 for the applicant, and 30 for the staff.

Murphy, Kathryn, Chair

I guess my concern and why I wanted to bring this up was to make sure that the language as we would pass it today would be clear enough, but yet be general enough that if we found the procedure that we came up with for tomorrow and to utilize we don't like, we can then go back in as a commission and change it. Whereas is if specifies right off the bat and it's very minute in

Townsend, Terrance

We can still leave, we can frame it up in more specific terms than this but still leave the catch phrase in there that or as modified by the commission. I think if somebody is heading into this and they have to wait until we talk about what we are going to do each time, I don't know that that's fair. It's not fair to them.

Darrell Hanson

I think that is the intent is to get our system perfected so you need rules that are general enough so that if you need to make some adjustment at some point you need to do it, but not have to work it out each time.

Davis Cook, Lisa

When we ultimately set what is going to be the procedure for all of these hearings are we going to vote on it as a commission, because we didn't vote on the procedure for this one. We never actually took a vote where people said I agree or I disagree. We discussed it but, I just want to make sure that if we are going to have some sort of procedure laid out that it's on record, a vote that says this is what the procedure is.

And I've read the public comments like on these and I am still concerned that unless we give people the opportunity, like at every single meeting we have public participation where people can come and speak to us regardless of what the issue is, if it's an issue that comes before the commission, they can come and talk to us, and I am very concerned with treating the hearing that is probably one of the most important things we do differently by not allowing the public participation and when I get a call from the governor's staff saying what are you doing not allowing public participation, I get very concerned.

Darrell Hanson

A hearing is supposed to be sort of a level playing field where people, where each side knows what the arguments are going to be and what they are going to have to respond to and I would sure hate to prepare for a hearing knowing that pretty much anything can be thrown in there at the last minute that I wouldn't be able to respond to and that's one thing that's bothered me. I also think that frankly in some cases some of the appeals would have been more successful if they would have been if their would have been less time to talk. That's just my own opinion that the best favor you could do for them is to say you have this much time and talk about your most important arguments, don't spend a half-hour talking about something that's not even on the table for discussion. I guess I think public input is important but there is no way we are going to

keep people from giving public input. As many phone calls as I get on these hearing issues, and people writing and calling and they come to our regular meetings, and I don't think we are ever going to cut off public input into that decision. The question is do we cut off the number of speeches at the hearing. Those are two different issues. The speeches at the hearing are not necessary for public input but less we are going to have to start paying people more to be on this commission, I can't come down here for two or three days a month because it takes us a day to get through a hearing. I can't just drive over here in 15 minutes to come to a meeting. It's a three hour trip down and a three hour trip home, I have a job I can only be away from so many times a month and I can see the road we're heading down here. We're heading down to two or three meeting a month handling one or two issues a meeting and I don't know how many people can serve under those circumstances.

Priebe, Gary C.

Tomorrow's meeting is going to be just the 30 minute, 30 minute, 30 minute.

General discussion

Venner, Rita

We might be able to get some feedback from this county as to how the public participation to the county went. I think if people know that that is what they have to do, I would think that is what they would do. And that's what they had to do this time, they had to give their comments to the county so we might,

Venner, Rita

The thing I like about this language, is that it leaves it open enough that it really is up to the commission as to what they really want to do so it doesn't put into the rules a specific protocol that we as a commission might like but commissions three years down the road might want their own protocol and this leaves it pretty open that there can be public, but you might decide not to have public.

Murphy, Kathryn, Chair

But somewhere we need to have criteria for operating now, you know, from here on.

Darrell Hanson

But if I heard Jerry correctly he was suggesting that you just say to argument by representatives each from the.

I think you probably wouldn't even need each would you?

So strike one and each and make representative(s).

Murphy, Kathryn, Chair

<i>It has been moved and seconded to change the language in 65.10.8. motion carried unanimously.</i>
--

Murphy, Mike

Page 7 of the response is similar to the first one we had in 65.16 new sub rule 3. It's fairly minor. It's changing the word officer to official or employee such as the county can just designate what official or employee they want to receive these documents and then in that same rule the comment felt that it wasn't clear. The rule requires that document receive documentation that the county board of supervisors has received the annual manure management plan update and didn't specify who had the burden of providing that so we are recommending some changed language. It's the applicant that has to file the plan so we're just saying the updated plan shall include documentation that the county board received it. I think that makes it clear that it's the applicant or the producer's duty to provide that documentation. We think that clarification would be useful. And now we're to the easy stuff.

Murphy, Kathryn, Chair

You get to sit down and Wayne gets to get up. Okay the mitigating factors in the matrix.

Gieselman, Wayne

I actually don't have much more to say than I said earlier this morning. The way you chose to go through this I don't disagree with. We've had 44 mitigating factors, we got some comments on virtually all of those. In many cases the department, we did not respond to those comments. Some said we like them, some said we don't like them, some said zero percent, some said 100 percent. The only ones we did make specific comment are limited to 22,23, 34, 36, and 44, but other than that we choose to let these mitigating factors stand on their own. If you have particular ones you want to talk about, or if you want to go through these one-by-one, that's fine.

Murphy, Kathryn, Chair

I think it would be, I don't know, commissioners if you want to look, I think in looking at the mitigating factors I think first of all it talks about what should the minimum passing score be for the master matrix. I think that is something we need perhaps to address. Would you not agree.

Davis Cook, Lisa

Kathryn, one thing that somebody approached me over lunch and said, you know we had talked about before lunch about how numbers we set may in fact be arbitrary and the one thing about what was in the original matrix that went out for public comment the 50 and the 30's I believe, Wayne correct me if I'm wrong, the department did actually run matrixes with the 50 and the 30 levels you sent out to the field offices and you said pick some good sites, pick some bad sites, see how they fair.

Gieselman, Wayne

Yes. And I think we furnished you with that information.

Davis Cook, Lisa

Where it showed that some did in fact, some of the good ones passed, or most of the good ones passed, some of the bad ones passed, some of the bad ones didn't pass. So the fifty and h

Peckum, Jerry

Our field offices and the industry did some of that too as well on existing sites that they had and proposed things. So, yeah, there was some chatting to see where things fell out. And as a result of that process, didn't you say that the Air Level 1 was perhaps higher than it should be.

Townsend, Terrance

That's right. I guess that might explain it. Yeah, I think the air level is, the air subcategory has, I don't know how to put this, the least amount of things you can control. The separation distance is a big part of that of that subcategory. And if you can't move, and if you're limited to a particular site, there's not much you can do to control that.

Peckumn, Jerry

You know I would like to discuss the community impact, community support option because that has some impact on what I think the percent should be overall. It seems to me that if we had a, what you call a matrix items, matrix item addressing community support, that is, people agreeing within say a one-circle mile. Not everybody is going to agree to that, but I don't see how if we don't put anything in there none of the producers can get any points from people within their area supporting the project. If we put it in there, and they have peoples' support, their neighbors support the project, it's to their benefit. So who does it hurt if we put in the matrix the item that would give them points for local community support.

Townsend, Terrance

I think the question is what do you do, how much community support?

Peckumn, Jerry

I think 100 percent. You know either you spend the time to talk to your neighbors and convince them that they, that it's not going to hurt them, that it's going to be good for the area or you don't, or you can't convince them. But if you can convince them, it's a benefit. If we don't put it in here, you can't convince them and it's not a benefit to anyone.

Hanson, Darrell

I've expressed my opinion 100 percent. I just think that's, to me that was the equivalent of saying you get extra points if you prove you can fly. I mean it's not going to happen, but unless you just have one or two neighbors, and then it's a different issue. But I agree that for someone who can have substantial community support that can override a lot of other things. You have a lot of specific questions you have to deal with like okay is it just adults that have to sign, or is it everybody. What do you do and who lives in the area and who doesn't. Does my 18-year old who is off to college does he live in the area or not, and do we need his signature or not. You have those kinds of questions, and in some communities that could be a real hassle. As far as whether it's a detriment, the only way it's going to be a detriment to somebody who couldn't get it is the fact that if you, if we conclude at the end that we're going to calculate the minimum support based on a percentage of the total possible. And anything we allow more points for, and I'm not saying this is a bad thing, I'm just saying anything we allow more points for means that if someone can't reach that thing they have to find that percent of those points some place else. So if we're, if you allow 20 points for that and I know I can't reach it, then I have, you know if we're going for let's say 25 percent I have to find five points some place else that I wouldn't have to otherwise. So that would be about the only negative.

Peckumn, Jerry

That's why I'd like to just cite that closer to report as you cite the percentages. Because I could

Hanson, Darrell

If there were more things to calculate the percentage.

Peckumn, Jerry

Right.

Hanson, Darrell

That to me would seem to be the biggest stumbling block is, and we have an area in our county, for example, where every election year we get into big discussions as to who's a resident and who is isn't. Because there are people who own property there, and there are people that spent part of their year there but they also own property some place else and spend part of their year some place else. Are they residents of our county, or are they residents of a different county? You can argue it either way.

Peckumn, Jerry

Can I offer a motion this morning?

Hanson, Darrell

Sure.

Peckumn, Jerry

Maybe there's not any support for this, but yet under area community support I move that if neighboring property owners agree in writing within one mile of the proposed site agree that it is acceptable that we'll award 20 points in the area of community support.

Hanson, Darrell

Okay, so it's owners of property so we'd know who they are.

Peckumn, Jerry

It would be property owners on record.

Hanson, Darrell

Within one mile?

Peckumn, Jerry

Pardon?

Hanson, Darrell

So within one mile?

Peckumn, Jerry

Within one mile.

Gieselman, Wayne

I have to stick in what if I'm renting the house. I'm not owner of the property but I'm living

Peckumn, Jerry

Well, it's easier for a renter to move, and their property value isn't impacted. The owner of the property's property value is impacted. If there is an environmental concern with air quality or water quality, it impacts the property owner more than it does the renter. So that's my reasoning.

Hanson, Darrell

Plus, you know who they are.

Peckumn, Jerry

Plus, you can find out who they are. So, if two people own property, they would obviously both have to sign. If one person owns the property, one person signs.

Gieselman, Wayne?

If they lived in New York, they wouldn't care. They'd sign it.

Peckumn, Jerry

Well, that's possible.

Peckumn, Jerry

Well, that's possible.

Gieselman, Wayne?

How have you helped the environment that way?

Vonk, Jeff, Director

There's an added 20 points over and above what's here already.

Peckumn, Jerry

Pardon, Jeff?

Vonk, Jeff, Director

Are you proposing that as a factor over and above what's here?

Peckumn, Jerry

Yes, I am.

Female ?

Twenty points would make it 100 percent within a one-mile radius.

Vonk, Jeff, Director?

And no points if you didn't get 100 percent.

Peckumn, Jerry

Well, that's my proposal.

Hanson, Darrell?

You could go half the points with half a mile.

Peckumn, Jerry

The law says that we're supposed to take into account, you know this is the Environmental Commission, and I agree that we have to be careful about mixing in social issues and mixing in economic issues. The law said that the matrix should consider community, I believe if I'm not mistaken, but I believe it said the matrix is supposed to consider community support. So I don't think we are out of line by doing something like this.

Vonk, Jeff, Director?

So the burden in terms of if I was the developer having to go out and secure all these signatures, is clearly on me, but if I am doing it the way you are proposing it I could just decide I can't get a hold of that absentee landowner in New York so I am just going to not even bother to try to do that. Yet, I'd still have the opportunity at 25 or 30 percent to get my community points in these other categories.

Tobin, James (Kelly)

But those two farmhouses could be long-time renters.

Peckumn, Jerry

Yeah, they could be.

Tobin, James (Kelly)

And they would have a say with their landlord probably.

Hanson, Darrell

I am sort of like you I've got the two issues intertwined as to what are the thresholds and then what do you get points for. The one concern I have, the only concern I have about this because again it is a defined group. You are not going to argue about who they are and who they aren't. If one person that you can't get a hold of, because they are living off wherever, or because you have one person who just doesn't like you ever since you dinged the door of their car 20 years ago. We all know that does happen. But now you have to go out and find five points some place else for that reason. So that is the one thing that is going to happen is it is going to increase the amount of points that somebody has to find from some place else.

Peckumn, Jerry

Sure. That is why I think it is important to decide this issue before we decide the number of points they need to pass.

Jerry Peckumn made a motion that if neighboring property owners agree in writing within one mile of the proposed site agree that it is acceptable that we ll award 20 points in the area of community support. Lisa Davis Cook seconded the motion

Venner, Rita, Secretary

We have a motion and a second. Further discussion?

Townsend, Terrance

I have the same problems that we had when we talked about this in one of our previous meetings. What are the odds that you are going to get 100 percent, but I guess if you have it down there as an option. Another concern I would have is if you lined up these people that would agree with it, then some group starts harassing them, because what are you doing supporting that thing. You know what that is? It is a factory farm. Lord knows you cannot have those.

Peckumn, Jerry

I think it would encourage developers of these to go to their neighbors and talk to them about what they are going to do and what they want to do and how they will protect them, maybe. It might improve the communications. I think a lot of the problems we have with opposition to these sites has to do with communication. You are right. Other people could come in and influence.

Townsend, Terrance

Well, make them targets.

Hanson, Darrell?

This is not a yes or no thing. It is only 20 points. Without it, there is no way they can get 20 points.

Peckumn, Jerry?

Yeah there is. There are community points on this.

Hanson, Darrell?

Well, no but what I mean is if we don't do this nobody can get the 20 points. I mean I'm talking about an extra 20 points.

Peckumn, Jerry

Oh, yeah.

Venner, Rita, Secretary

Over and above what is given to us here proposed. Oh, okay.

Peckumn, Jerry

Right.

Venner, Rita, Secretary

Peckumn, Jerry

You make the choice if you know that you can't get it.

Venner, Rita, Secretary

But they are asking for something unattainable.

Townsend, Terrance

Maybe for one it is, though.

Hanson, Darrell?

What if you don't have any neighbors within a mile?

Townsend, Terrance

Yeah.

Peckumn, Jerry

Then you get to pick up some points, and that's actually not a bad thing.

Townsend, Terrance?

In other words if the guy, say he had to have 432 ½ points, if he came up with 422 points then he could go out and get 100 percent of his neighbors and pick up an additional 20 points and get over the top?

Peckumn, Jerry

Yes, as Darrell said, we are going to add the 20 points to the total. If we set it at 40 percent or 60 percent, it's going to add 40 percent of those to where they have to go.

Townsend, Terrance

So, your motion is going to make this guy have to get more points than 432 ½

Peckumn, Jerry

Oh, yes. Well, it would be ten more points.

Townsend, Terrance

Another ten, yeah.

Peckumn, Jerry

What I am also saying is a _____ of ten.

Hanson, Darrell?

Well, five in the category and ten overall.

Townsend, Terrance

I have no problem with putting it in there. If they can get it, all the more power to them. It also might limit them from not getting a permit.

Peckumn, Jerry?

Well, it would be ten points, though.

Townsend, Terrance

If ten points if keeping them from getting it.

Hanson, Darrell?

Well if ten points is 50 percent, but as Jerry said, you have not decided that it is 50 percent yet.

Townsend, Terrance?

Well, that is true. Yeah.

Khosravi, Reza

There is a need for clarification here. I was asked to ask you if there is no neighbor in a one mile radius do they get that 20 points or not.

Peckumn, Jerry

I think as we have written this, they would have to own a mile circle of land. I think there would be very few spots in Iowa. I think this says property owners.

Hanson, Darrell?

Yeah, property owners, you are right.

Townsend, Terrance?

Maybe that is a problem. So even though there are no buildings there are property owners.

Peckumn, Jerry?

I am not talking about residents, I am talking about property owners.

Hanson, Darrell?

You can't define residents. It is almost undefinable.

Townsend, Terrance?

There are going to be property owners even though there might not be a building on them.

Roll Call - Extra 20% 1 Mile Radius/Property Owner Darrell Hanson, aye; Gary Priebe, nay, Kelly Tobin aye, Terry Townsend, aye, Rita Venner, nay, Jerry Peckumn, aye, Lisa Davis Cook, aye, Kathryn Murphy, nay motion carried

2:10 - Lisa D. Cook Left

Hanson, Darrell

I have a question on #36, as long as we are looking at individual factors. One of the concerns I had was with the antibiotic one, and this is going to take an hour, is that while I think there are clearly good arguments to reducing unnecessary use of antibiotics, that provision was pretty impossible to enforce and could lead to a lot of bad faith complaints. How do you follow up the complaint and so on. I kind of have the same concern about #36. If we are going to keep it, I guess the first thing I am saying, and I am the farthest thing from an expert here but I'm pretty sure that one of those two words has to be phytase. It is either low phytase corn or a phytate supplement or low phytate corn and a phytase supplement. I think one is the enzyme, and one is something that inhibits the enzyme or something. It doesn't make sense that you are either going to reduce phytase or you are going to supplement phytase. So anyway, I just make that comment that if we put this into the rules I think one of those has got to be phytate instead of phytase. I think you need to check that out and see which one is which. That we can change. We have this (inaudible) over #36 (inaudible). I have real concerns about this being unenforceable. I guess I will just leave it at that. I am not sure we want to go out checking key rations and (inaudible) and suddenly they are in violation of their permit. I have concerns about that. The committee did agree to this, and I think that as a department we went along with it because it is a good kind of common sense way of dealing with nutrients in beef. I know as an enforceability I had some real concerns. I talked to some folks that I come into contact with through my job and just asked them about this. Most people say that is a good idea. I don't know how you would enforce it. What do you do if somebody called and said, hey, Hanson promised he got five points for saying he was going to feed phytase supplements and he's not doing it. Well, how are you going to check that out? What if they call back a month later and say well now he's not doing it. I know this time he isn't? So, I guess I would propose that we strike that one.

Darrell Hanson made a motion to delete Item #36, Rita Venner seconded the motion. Motion carried unanimously

Hanson, Darrell

Unless somebody else wants to jump in on one, I have another concern about one. I'm looking for it now. Oh yes, it is #38. I know there has already been some discussion about making it clear that there is going to be some ability for the person that has the manure management plan to only have to deal with a reasonable time and place, which is logical. I guess first a question. Is it possible, if this was my manure management plan, could I decide that the reasonable place is the county auditor's office, or the DNR field office? I think it is one thing to say it should be a public record. It is another thing to say that I should let people come into my house or into my office to look at it. I can envision what kind of situations we are going to have. Unless it does not need to be specified, I just want to make sure that it is understood that it can be the public library. It could be publicly accessible, which is actually better for the public anyway. Then they don't have to feel intimidated or confrontational. They can go in anonymously and take a

look at it. Do we have to do anything to make that clear, or is that understood in the language that you are looking at?

Gieselman, Wayne

I don't know how many lawyers are still behind me. In my view, it is clear that someplace else can be the DNR or someplace else. Now, the lawyers behind me, if they are still there, may not agree with that.

Murphy, Mike?

I agree.

Gieselman, Wayne

Okay, that's fine. I think for the most part most producers are not going to want people coming in, disease problems and those kinds of things. We try to be pretty careful about that ourselves.

Murphy, Mike

I think we are okay there, personally.

Murphy, Kathryn, Chair

Okay. Do we want to go back to what should the minimum passing score be for Master Matrix? Or do we want to take up the three subcategories?

Hanson, Darrell

I guess we have one thing to think about, and I'm not advocating the position. We have added 20 points with Jerry's motion. We have subtracted five points with Mike's. We have added 15 points to the total, which does add 7 ½ points to the total required. It is stated 50 percent but it is another 7 ½ points. I am just mentioning that in case that is an issue for anybody, but that will change those numbers. The overall number will go up by 7 ½ the water one will go down by 1.67, depending on what you decide. The community impact one will go up by 5 unless you change.

Unknown

If it stays at 50 percent it is 440 now.

Peckumn, Jerry

Well, at 50 percent, there will be locations that people can buy that will pass a proximity, and I feel like we should probably be looking at a little higher than 50 percent. We do have over 50 percent by adding this. At this point I don't feel like lowering it at least.

General discussion

Peckumn, Jerry

Well, unless the proposal is the number and not the percentage. The numbers are what are written in here.

Townsend, Terrance

Well, it is actually the percent.

Peckumn, Jerry

The percentage is what we are struggling to settle.

Townsend, Terrance

Oh, okay, in that case forget it. If we approve this, you will go back and change the numbers. Is what you are saying?

Peckumn, Jerry

Yeah, we will go back and change the numbers and make sure the numbers reflect percentages.

Hanson, Darrell

But if you don't change either one, can you have a motion that passes all of it and that is finished? Right?

Peckumn, Jerry

We will see. Unresolved issues.

Townsend, Terrance

What is left?

Peckumn, Jerry

Subcategories, Terry.

Townsend, Terrance

We could approve it as it is written, and there would be subcategories too.

Peckumn, Jerry

Right.

Hanson, Darrell

Well, do you want a motion to adopt the whole thing?

Murphy, Kathryn

Unless you want to tweak some other areas.

Townsend, Terrance

I had one question if we could.

Murphy, Kathryn

Okay.

Townsend, Terrance

Eldon brought up a point about where you say mark one score under each criterion. Really you are not marking one score under each criterion. Is that something that you want to revise?

Townsend, Terrance

Well, I would ideally like that.

Venner, Rita, Secretary

But probably there is no way to participate in that particular You know?

Townsend, Terrance

You need to put an N/A or something.

Venner, Rita, Secretary

They would have to have room for something then so you would know _____.

Townsend, Terrance

So once you get your 400 points, assuming that is the thing with numbers, you are done.

Gieselman, Wayne

If you choose to be. or If you choose not to be, but you are going to have to decide. Somewhere in here you are going to have to decide I am looking at this with my regulator's _____. You are going to have to decide which of these things you are living with. Even if you marked every box, somehow we get to know are you doing 1, 22, 28, 34, 36. It is going to be part of their permit. They comply with these things. They were choosing to take some of them and not choose the others.

Townsend, Terrance?

That is a valid point. Would it help if we had a one-page score sheet that had just a worksheet that just had one through whatever and then had the air, water, community option. Then when they highlight or check each one of those then you can go down, and you can total the thing up what's on one page. They can see how they are doing as they go. Maybe just to give them a supplement. Otherwise, you mark it, you mark it, you mark it, and then you have to go back through.

Gieselman, Wayne?

I think that is a good idea. One of the things that we are actually getting close to having done is, when you guys get done, we are close to having this on the Web.

Townsend, Terrance

Oh, okay.

Gieselman, Wayne

Well that doesn't satisfy everybody's problems there, but anybody who has Web access can see where they are at.

Townsend, Terrance

Okay.

Hanson, Darrell?

I am not an expert but I know you can set them up somehow where you can't close out until you fill every field, and I don't know how we get everything set up. I agree with Terry. To me, the natural instinct would be to take credit for as much as possible. _ politics that is what you do, just from the standpoint of selling your proposal to the public. If somebody chooses not to do that, I guess I don't have a problem with them choosing to just go for what they feel they can safely get as long as we determine that it is an adequate effort. So what can we do to fix that then?

Priebe, Gary C., Vice-Chair

If they answer every question, didn't you say you were going to hold them accountable?

Hanson, Darrell

Did I say that? No, what I said is that whatever your point total is you get. Let's say 100. Once you get 100, you are responsible for meeting that 100-point goal. You are going to have to tell me in which one of those five categories you have chosen to reach that 100. For that, I or the Department is going to hold you responsible, because that is what you are saying.

Townsend, Terrance

Right. But if you fill this out and got to 600 points, you are going to expect them to abide by every question answered.

Hanson, Darrell

We will incorporate it in the pilot.

Townsend, Terrance

Right. So then you are crazy if you answer any more than you absolutely need, but then you said you would not give them a permit if they did not answer all the questions.

Priebe, Gary C.,

That depends on how many angry neighbors you get. You are better off to do whatever you can to try and help sell your project, the more you get. Obviously, you don't want to just go checking stuff you have no intention of needing.

Hanson, Darrell

For the most part I don't think somebody's going to say they are going to cover their lagoon unless they really need those points.

Townsend, Terrance

Yeah. I can see that point, too.

Hanson, Darrell

But if all they have to do is maybe put some kind of a filter on their fan exhaust that is not all that expensive of a thing to do and can make a big difference in how it does smell to the neighbors.

Priebe, Gary C.

So if they don't answer a question, then you are going to make them answer it?

Hanson, Darrell? I don't think I can. I think we can adopt this to put a non-applicable, or just a sentence, an instruction, that says you may leave a question unanswered.

Townsend, Terrance

You could put a non-applicable for each one of these, some of these where there is only one.

Hanson, Darrell

Or just have an instruction. Just say you leave one blank.

Vonk, Jerry, Director

People are going to tend to mark the proximity issues because that won't change.

Hanson, Darrell

Yeah.

Vonk, Jerry, Director

I wouldn't, if I was filling this out, I wouldn't claim credit for something I intended to do unless I had to. I would just put a zero in there.

Hanson, Darrell

But then if they put a zero, this is a public document.

Vonk, Jerry, Director

From a PR standpoint, you are saying.

Gieselman, Wayne

I will say Eldon did suggest a wording change that might solve this problem. Mark one score under each criterion selected. So that means that is the one you are picking that you are going to use.

Hanson, Darrell

Okay.

Gieselman, Wayne

Then it is up to you.

Vonk, Jerry, Director

They know what the minimum is so they know what they need to get then.

Gieselman, Wayne

I would say selected by the applicant to make it clear.

Vonk, Jerry, Director

You don't want to select for them?

Hanson, Darrell So then I ll move that after the word criterion they insert the words selected by the applicant. Townsend, Terrance Second. Motion carries. Roll call vote to Adopt Rule #4 as amended Darrell Hanson, aye, Gary Priebe, nay, Kelly Tobin aye, Terrance Townsend aye, Rita Venner, aye, Jerry Peckumn nay, Kathryn Murphy aye

APPROVED AS AMENDED

CONTRACT AQUADRILL, INC. - CONSTRUCTION AND TESTING OF MONITORING WELLS

Wayne Gieselman, Administrator for Environmental Services Division, presented the following item.

The Department requests Commission approval of a \$73,566 construction contract with Aquadrill, Inc. of Coralville, IA to conduct rock coring, aquifer testing, geophysical logging, and construction of four groundwater monitoring wells at Westfield Elementary School, in Linn County (City of Marion). Aquadrill, Inc. was the only bidder on the project.

This would be the third well nest developed in the creation of a monitoring well network for aquifers across the state in strategic locations. The first two well nests were drilled in Hamilton and Humboldt counties during FY01 and FY02. Well nests are groups of wells, each finished in

different discrete strata that are co-located. Water from these wells will be age dated to determine relative vulnerability, and tested for many years for changes in water quality and water levels. They are the best way of monitoring ambient groundwater because they are very precise and are not influenced by pumping. In this instance, the target is the Silurian-age aquifer, which is widely used in east-central Iowa for municipal and private sources of drinking water and is potentially impacted by urban activities near the well site.

Funding for this contract is available from the RIIF state funds appropriated as part of the Environment First Fund - Iowa Water Quality Initiative.

Skopec, Mary

I have provided for you a schematic of the well maps. With these well maps, what we are trying to do is get a good idea of what is the groundwater quality. Typically, we can go to either __ or private wells to get an idea of that quality, but we don't always know how great that well is constructed, whether there are problems with that well. So, when we go and drill our own wells we know exactly what the construction is, and we also know exactly what _ of ground we are hitting. So, the schematic that I have provided for you is from the first well that we drilled at Bridge Woods. The current well map that you will be voting on is in Linn County Iowa. It is near Robins, and that is where the map is that I have provided for you. Three-eighty cuts across that bottom left-hand corner. This is really a well map that we plan on drilling, which is used extensively in this eastern part of the state, protecting water quality. By putting it where we are going to put it, next to a school, it is on public land so we have access to it. It will help us take a look at what urban effect it has on the groundwater quality there. When we drill these well (nests?), they help us keep track of potential groundwater problems from various things that are happening on the land surface. We think this one will help us with some quality issues that we have in the Cedar Rapids area, as well as quantity issues.

Tobin, James (Kelly)

I have a question. It is going to be built on a school ground? And what protection do you have for the kids then?

Skopec, Mary

We have located it, away from the schoolyard. There's a schoolyard, a parking lot and a driveway, and then it is on the opposite side of the driveway. So the driller, we have a DNR person on site, to make sure that the kids stay away, as well as the site is secure at night when they aren't drilling. Then once that well is drilled, we put a metal fitting over the top. It is locked with a key so they can't get anywhere near that well once it is completed. The interesting thing about this site, too, is there is a sinkhole type structure that is right there. So again, we think it is going to be an interesting site because there may be potential contaminants getting in through this sinkhole type structure to the groundwater. It is typical of that area north of Cedar Rapids. We have very little glacial tilt cover sitting over that rock, and so it is very vulnerable to contamination. We think this is a good site to be looking at.

Tobin, James (Kelly)

So did you sign an agreement with the school board ?

Skopec, Mary

We signed an agreement with the school board, and we signed an agreement with the county that gives us permission to be on that land. We have all that documentation in place.

Tobin, James (Kelly)

How long a period?

Skopec, Mary

The school board says you can keep it there as long as you are using it. Then if you don't use it anymore, then we go in and we close that well. We take all the pipes out; we fill it back in.

<i>Darrell Hanson made a motion to approve the contract as written. Terrance Townsend seconded the motion. Motion passes unanimously</i>
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APPROVED AS PRESENTED

CONTRACT - UNITED STATES GEOLOGICAL SURVEY - STREAM GAGING AND WATER LEVEL MEASUREMENTS FOR FY03.

Wayne Gieselman, Administrator for Environmental Services Division, presented the following item.

The Department requests Commission approval of a contract in the amount of \$215,480 with the United States Geological Survey (USGS) for stream gaging and groundwater monitoring activities.

This contract continues the cooperative cost-share agreement between the Department and the USGS for a variety of activities including the measurement of stream flows, measurement of groundwater levels, sampling of municipal wells for groundwater quality, and measurement of sediment concentrations in streams. The majority of the contract amount will be used for stream gaging at 22 stream sites and 4 lake stations. Continuous stream discharge measurements at the USGS gages can be used to predict flooding as well as irrigation water supply. The measurement of stream flow is a critical element of a water-monitoring program because it is used in the calculation of mass loading of various contaminants to receiving water bodies. Similarly, this contract contains \$48,750 in funding for the measurement of groundwater levels across the state. These groundwater level measurements help to locate areas where groundwater is being withdrawn in excess of natural recharge levels or where drought conditions have negatively impacted the water levels. The final portion of the contract provides for sediment sampling at 5 stream gaging stations at a cost of \$46,575. Two of these stations (Iowa River at Wapello and Skunk River at Augusta) were supported by the U.S. Army Corps of Engineers (COE) as long-term sediment stations for more than 20 years. When fiscal year 2002 budget cuts to the COE eliminated funding for these sediment stations, the Department incorporated these stations into the USGS contract to preserve the data record.

Funding for this agreement is available from Fish and Wildlife Trust Fund and State Infrastructure Funds appropriated as part of the Iowa Water Quality Initiative.

(Updated version of the contract distributed by Mary Skopec is available in the department's record center.)

Mary Skopec: This is a long-term contract for stream gauging or groundwater level measurements. What we get from this contract is stream gauging, which helps us with not only flood protection but TMDL's and we had to figure out your maximum load. That stream volume is a critical piece of that TMDL picture. We also can use those stream-gauged levels to tell us whether or not for water quality standards the appropriate amount of a pollutant is being discharged safely, a municipal wastewater treatment plan. It helps us with water quality standards. It helps us with irrigation information.

We also have groundwater level information. These are 156 wells scattered across the state. They tell us whether or not we are having problems with excessive draw down of the groundwater. In western Iowa, when we have drought conditions or water levels drop, this helps us keep track of that. It tells us whether we need to stop irrigation in those parts of the state, what amount we have to do something about the number of wells that are tapping in _____ because once that water is gone you may not be able to get it back through recharge. So, this will help us keep track of what we are doing with our groundwater in the state. The last thing is the sediment monitoring. Some of these sediment stations were supported by Corp of Engineers for a long time, for about 25 years. The Corp no longer can support those stations because they don't have the money. We decided that rather than lose that credited information that we would pick that up through this monitoring contract. It helps us to determine how much sediment is leaving the state by having those stations in place. I think given that sediment has been the number one pollutant in the state for a long time we need to know what is happening with sediment in the state. This gives us sort of a first step toward that in keeping that going. The funding for this is again Environment First Infrastructure Fund. In the past, we had state general funds that covered the gauging. We have lost that, but it is now being replaced by the Environment First fund. This is all infrastructure money. Again, this is a critical piece for the department in understanding water quality through understanding how much volume of water is moving in our streams.

Jerry Peckumn moved to approve the contract as presented, Rita Venner, seconded, all approved. Motion carried

APPROVED AS PRESENTED

PROPOSED RULE - CHAPTER 109, SPECIAL WASTE AUTHORIZATIONS (GENERAL SPECIAL WASTES)

Wayne Gieselman, Administrator for Environmental Services Division, presented the following item.

The Commission is provided the attached proposed Notice of Intended Action for the rulemaking described therein. The rulemaking and rationale supporting these proposed revisions are described as follows.

The Energy and Waste Management Bureau administrative rules for Special Waste Authorizations are being revised to include stabilized grit, bar screenings and grease skimmings to the category of general special wastes. This revision will eliminate the need for a Special Waste Authorization for the delivery of this common waste to a permitted sanitary landfill.

Another revision will add the conditions and requirements that shall be met by the sanitary landfill and /or the generator for the disposal of general special wastes (which will be petroleum-contaminated soil; asbestos-containing wastes; and stabilized grit, bar screenings and grease skimmings).

The last revision will correct an omission that was made in the paragraph that addresses infectious waste.

(A copy of the Notice of Intended Action is available in the department's record center.)

Mel Pins: This is not a tire item. This is an informational item of a proposed Notice of Intended Action for some amendments to Chapter 109, which is our Special Waste Authorization Chapter. What I would like to do is just give you some quick facts on this to help you with this review and decision on this. By law, the DNR has to have rules pertaining to special waste handling at sanitary landfills for its disposal. The law defines special waste as industrial processed waste, pollution control waste, or toxic waste that might present additional threats to human health or the environment or waste with (inferent?) properties that might make them tough to handle at the landfill. It may sound a little confusing, but your average garbage truck that shows up probably carries some standard things from businesses, households, etc. That special waste again it might cause extra harm if they are not handled properly, it might cause some kind of physical impact to the people, or that might need to be handled slightly separately. Some common special wastes are petroleum contaminated soils, infectious wastes, asbestos-containing materials or what is commonly known as bar screenings from wastewater treatment plants, solid non-biodegradable items. Historically, landfills had to have special waste authorizations as part of their landfill permit if they wanted to accept these special wastes. So in other words, there are 700 municipal wastewater treatment plants in Iowa or something more than that. Each landfill had to have in their permit if they were going to accept these bar screenings from their local wastewater treatment plant. It had to be in the permit, lots of extra language, verbiage, etc. So the purpose of this rule amendment is going to be to clarify some terms and inclusions of what we are going to call general special waste. Those will include things such as the petroleum-contaminated soils, asbestos-containing waste, and the bar screenings and non-biodegradable waste from wastewater treatment plants. What will happen is the intent of the rule will be to remove these general special wastes from each landfill's permit so they don't have to have all this lengthy information about how they are going to handle it. However, in place of that, the rule itself will contain the conditions on how the landfill will accept and handle these items. In essence, it is a permit by rule. Even though they are considered general special wastes, there are enough of them that if each criterion is established on how the landfill accepts, then handles and disposes of

the waste it can shorten the permit. It simplifies that for the landfill and avoids a lot of extra duplication and kind of speeds up that whole process. While this is just an informational item, we would predict we would bring this to you probably next month for Notice of Intended Action.

INFORMATION ONLY

FINAL RULE - CHAPTER 117 REQUIREMENTS FOR WASTE TIRE FACILITIES (SETBACK DISTANCES)

Wayne Gieselman, Administrator for Environmental Services Division, presented the following item.

Attached for the Commission's review and decision are final amendments to administrative rule chapter 567-117 "Waste Tire Facilities." The Commission approved the Notice of Intended Action for these rules at its October meeting. These amendments clarify setback distances for waste tire stockpiles at permitted waste tire stockpile storage sites, pursuant to requirements set forth in Iowa Code Chapter 455D.11, and to update references to the Iowa Code where appropriate.

A public hearing was held on December 4, 2002, to receive comments, either orally or in writing, on the proposed rule changes. No comments were received.

The Commission is requested to approve these amendments as a final rule.

(A copy of the Final Rule is available in the department's record center)

Mel Pins: By law, and it has been this way for the last 12 years, by law there is to be no burning within 100 yards of a waste tire stockpile. This is a common sense law, bad idea to burn next to a stockpile. So in our previous Chapter 117, we plainly stated no burning within 300 feet of a tire stockpile was allowed, very simple. However, we ran into the Administrative Rule Committee kind of noticed what if that tire stockpile site, what if its property boundaries are closer than the 300 foot setback. In essence, you are kind of imposing on neighboring owners that they can't burn then on their own property if they are within 300 feet of the pile. Once again, I would say common sense would say if your neighbor does not have open burning. We did review the rule. We sought to put forward an amendment that basically says if you are going to run an above-ground tire stockpile site, you as an owner are going to have to have your site set up so you have the 300 foot setback distance. So, fairly speaking, if this piece of paper was your tire stockpile site, your tire pile would have to be right in the middle of it. We do not have any above-ground permitted tire stockpile sites in Iowa at this time, so this change in the rule won't affect any current operations. It is something that we would make any potential permit holders aware of that they would have to have this 300-foot radius around the whole property.

Darrell Hanson moved to approve this as presented, Jerry Peckumn seconded the motion. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT HDR ARCHITECTURE, INC - SUSTAINABLE DEVELOPMENT CONSULTING SERVICES (AMENDMENT)

Wayne Gieselman, Administrator for Environmental Services Division, presented the following item.

The Department is requesting approval to amend the original \$160,000 contract, with the architectural firm of HDR Architecture, Inc. subject to satisfactory negotiation of budget, match and deliverables. HDR Architecture, Inc. is providing sustainable development consulting services on a retainer basis, with no guaranteed minimum amount to HDR Architecture, Inc (HDR). The contract amendment will not exceed \$45,000.

Reasons for Contract Amendment

The amended contract is an outcome of the long-term goal of the original contract, which was to expand sustainable building design principles into construction and renovation projects beyond the Capitol Complex. During the last several months the department and HDR have facilitated a process with representatives from the Iowa National Guard, Iowa State University, University of Northern Iowa, University of Iowa, and the Department of General Services. Each of these agencies is committed to incorporating sustainable design principles in their construction and renovation projects. They have requested that the Department of Natural Resources and HDR take the lead in working with them in developing a guidance document for incorporating sustainable design in future building projects. It is anticipated that among many other items the guidance document will be the first publication produced that describes all current state building requirements, as well as the benefits, cost impacts, process for incorporating sustainable design, and sample request for proposal and specification language for implementing sustainable design.

The Iowa Sustainable Design Initiative is a successful program that has generated tangible results and a lot of statewide interest in sustainable design. Amending this contract with HDR to assist in development of the sustainable design guidance document is a natural progression given HDR's outstanding performance, success in securing a commitment from various state agencies to incorporate sustainable design principles and expansive sustainable design knowledge.

Iowa Sustainable Design Initiative

The Iowa Sustainable Design Initiative was launched in October of 1999 as a partnership between the Department of Natural Resources and the Department of General Services. The Iowa Sustainable Design Initiative supports the integration of sustainable design principles in all projects in Iowa by educating constituents and agencies on the benefits of sustainable design.

The implementation of sustainable design practices supports many of the programs and efforts of the department including, but not limited to, efforts to protect water quality, reduce water and

energy consumption, protect habitat, reduce material usage, increase recycling, improve indoor environmental quality, re-establish native vegetation and use alternative energy.

Sustainable design principles include, sustainable site planning, materials and resource conservation, energy efficiency, water safeguarding, protection of indoor environmental quality, and solid waste reduction. By incorporating sustainable design, building owners like the state of Iowa can realize many benefits including reduced operations and maintenance costs, reduced absenteeism and employee turnover and higher productivity.

A long-term benefit from the successful implementation of the sustainable principles will be a transformation of the local building industry into an industry that understands and practices sustainable development. Wide dissemination of this knowledge and experience will also result in the education of the general population to recognize the benefits of sustainability, thereby creating market demand for these practices.

Upon completion of this project, DGS has agreed to include sustainable consulting services funding into all building, renovation and demolition project budgets for legislative approval. Such a commitment will ensure that sustainable development principles are carried out for all future Capitol Complex projects and will be provided and supported in building and renovation projects involving other state agencies.

Several accomplishments of the Iowa Sustainable Design Initiative include:

1. Facilitating a one-day Sustainable Design Training Course for Iowa architects, state agency personnel, and solid waste operators.
2. Conducting a Vision Development Session to strategize how best to implement the sustainable principles included in the Master Plan.
3. Adopting the LEEDTM Green Building Rating System (Leadership in Energy and Environmental Design) as the preferred system of measuring success of green building design on the Capitol Complex and developing a Pilot Phase to test the use of LEED.
4. Developing a Sustainable Building Checklist to provide architects and engineers with a means of measuring accordance to the LEEDTM Rating System.
5. Defining levels of commissioning and negotiating commissioning language and opportunities for Capitol Complex projects. Developing RFP language and supplemental information to support the integration of commissioning on upcoming projects.
6. Partnering with Department of General Services to encourage sustainable building principles with other state agency projects outside of the Capitol Complex grounds.
7. Providing sustainable consultation to designers of the Iowa Judicial Building.
8. Promoting sustainable design to agencies, architects, engineers, and school administrators.
9. Developing and disseminating an informational brochure.
10. Developing a sustainable building Web site, www.sustainableiowa.org.
11. Providing technical assistance to DGS' environmental purchasing agent.
12. Providing informational resources and consultation to other Iowa projects.
13. HDR Architects, Inc. has been selected as the lead architectural firm and will incorporate sustainable design for the new Iowa Laboratories Building.
14. Registering the Iowa Laboratories Facility with the United States Green Building Council with intent of becoming Leadership in Energy and Environmental Design (LEED) certified.

15. Completion of 5 lecture programs on sustainable design with 140 people in attendance.
16. Completion of sustainable school design workshop with more than 30 in attendance.
17. Completion of 10 Green Buyer Guides to assist purchasers in buying environmentally preferable construction products.

Merry Rankin: This initiative basically supports the integration of Sustainable Design principles in all projects in the state of Iowa. At first, it started out to be those affiliated with state government and related agencies, but we are also looking at spreading this net and educating all projects in the state of Iowa through the education and awareness building of constituents and agencies on the benefits of these design principles. Not only are there benefits to the building in construction and operations, there is also significant benefit to the productivity of those that must work and be a part of those buildings. There are benefits as well to the agencies or the organizations themselves that have taken the initiative and taken the opportunity to incorporate these principles. The very bottom one actually has to do with schools that have incorporated these principles. It is a new and up and coming area and significant improvement in test scores have been shown as an FYI to schools who have incorporated these principles. In the EcoNews publication when the State of Iowa actually moved to incorporate Sustainable Principles into the master plan complex, they became the first state in the union to do that. That is something pretty exciting for our state. Through items that you see here, reviewing design construction processes for different state projects, training opportunities, developing tools that could be used with regard to these projects, we were a part of doing some review for the new judicial building and, of course, bringing in other partners, DGS being our first agency partner. It has expanded beyond that. To highlight the categories, you have sustainable site planning, safeguarding of water, water quality issues, energy efficiency issues, material and resource conservation, indoor environmental quality, and solid waste reduction. The outcomes to date that we can note have already taken place through the initial contract that was approved by all of you for HDR. We have done some vision development sessions with regard to the master plan. We did a review of rating systems and finally adopted the Lead Green Building Rating System. This was primarily in order to have a baseline foundation to measure what exactly is a green building. There are all sorts of ideas out there. We have done sustainable consultation to the judicial building designers. We have done a lot of promotion to agencies, architects, engineers, and even school administrators, which was why I mentioned the increased test scores. We have developed a website which is up and running currently. Recently we have been involved with Clear Creek Amana. They are adding an alternative high school. They have asked us to be a part of assisting them in making it a sustainable building. We have also offered assistance and resources to different other projects that were interested in incorporating some facet of sustainable design. Currently, we have four major areas that we are focusing on. We continue to work with the Iowa Laboratories Facility to assist them through the pilot phase of having registered, now continuing through until the certification can be complete. We are making material recommendations through the purchasing agents, the Green Buyers Guides. We continue to do agency outreach, the lectures, the workshop, and the website. The final item is the item that is actually being put before you today. That is with regard to Sustainable Design guidelines for state buildings. This is to provide sort of a one-stop referencing resource for anyone in the state that is interested in completing a construction or development project and interested in incorporating Sustainable Design guidelines into that project. We have all of the major regent folks, the U of I, UNI, and ISU are all on the stakeholder group that has been working to put together ideas for these

guidelines. The National Guard is involved, of course, our department and also the Department of Transportation was left off, but they are part of this as well. Also, there will be model RFP, spec and contract language that will also be a part of this, so again, kind of a one-stop resource.

Murphy, Kathryn, Chair

The contract amendment amount is in the amount of \$45,000 and from what budget or what area will that be coming from?

Rankin, Merry

It is going to be part of the targeted projects that come out of this Solid Waste Alternatives Program budget, the small budget.

Kelly Tobin moved to approve the contract as presented, Darrell Hanson seconded the motion. Motion carried unanimously.

APPROVED AS PRESENTED

FINAL RULE CHAPTER 7, RULES OF PRACTICE IN CONTESTED CASES

Wayne Gieselman, Administrator for Environmental Services Division, presented the following item.

The Commission will be asked to approve the attached draft Adopted and Filed Notice to amend Chapter 7, "Rules of Practice in Contested Cases," 567 Iowa Administrative Code. This amendment is intended to adopt by reference amendments to 561—Chapter 7, "Rules of Practice in Contested Cases," which are simultaneously being adopted by the Director. The purpose of the amendments is to allow the Department's procedural rules to conform to Iowa Code chapter 17A, to update the titles of Department officials mentioned in the rules, and to correct an error in the rules. A Notice of Intended Action was published in the Iowa Administrative Bulletin on November 13, 2002, as ARC 2099B. The deadline for public comment was December 3, 2002. No comments were received.

(A copy of the Final Rule is available in the department's record center.)

Wayne Gieselman: What we are asking you to approve is the first half-page in which you adopt by reference the rest of the package which is the rest of the rules adopted in part 561 of the Administrative Code, which primarily updates.

Darrell Hanson made a motion to approve the rule as presented, Kelly Tobin seconded the motion. Motion carried unanimously.

APPROVED AS PRESENTED

FINAL RULE CHAPTER 2, PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Wayne Gieselman, Administrator for Environmental Services Division, presented the following item.

The Commission will be asked to approve the attached draft Adopted and Filed Notice to amend Chapter 2, "Public Records and Fair Information Practices," 567 Iowa Administrative Code. This rulemaking is intended to adopt definitions of "emission data" and "effluent data" for purposes of confidential treatment by the Department. A Notice of Intended Action was published in the Iowa Administrative Bulletin on November 13, 2002, as ARC 2097B. The deadline for public comment was December 3, 2002. No comments were received.

(A copy of the Final Rule is available in the department's record center.)

Murphy, Mike

We are processing no changes to the notice. Basically, this adopts definitions for the terms "emission data" and "effluent data." There are provisions in the law that allow us to maintain this confidential information and business trade secret information, but those laws include exceptions such that emission data or effluent data cannot be maintained as confidential. We have had that rule on the books for a long time. We did not have definitions for those terms and were left with some inconsistent practices and these are basically Federal definitions that were required to follow. There is not too much controversy involved here.

Hanson, Darrell,

Who gets to decide what are trade secrets involved?

Murphy, Mike

There is a process in any chapter to the Department's rules. First of all, somebody has to claim it. They have to ask for it. They have to submit a complete document and then a document that has X'd out the material they want to be maintained as confidential. There is a justification statement required that has to follow a certain format.

Hanson, Darrell

It is possible that could be approved or denied then?

Murphy, Mike

Correct.

Gary Priebe made a motion to approve as presented, Rita Venner seconded the motion. Motion carried unanimously.

APPROVED AS PRESENTED

PROPOSED RULE - CHAPTER 22, CONTROLLING POLLUTION, TITLE V FEE CAP

Wayne Gieselman, Administrator for Environmental Services Division, presented the following item.

The Commission will be asked to approve a Notice of Intended Action at the February 17, 2003, Environmental Protection Commission meeting to amend Chapter 22, "Controlling Pollution", 567 Iowa Administrative Code. Additionally, an Adopted and Filed Emergency rulemaking will be presented simultaneously with the Notice of Intended Action.

The purpose of the rulemakings will be to increase the maximum dollar per ton fee (a.k.a. "fee cap") specified in 567 Iowa Administrative Code subrule 22.106(1). The maximum fee that the Environmental Protection Commission is currently allowed (by rule) to charge annually on the first 4,000 tons of actual emissions of each pollutant, from sources subject to Title V permitting, is \$29 per ton. Budget projections and estimates of actual emissions indicate that this annual fee will have to be increased to maintain the current level of service with increases in staff salaries due to negotiated contract increases. The current annual fee is \$29 per ton, which is at the maximum cap level. Therefore, the Commission will be asked to raise the fee cap to allow for increases in annual fee levels.

Chapter 22.106(1) of 567 Iowa Administrative Code requires that the Environmental Protection Commission to set the annual fee for the coming fiscal year no later than the May Commission meeting. For the fee cap rule change to become effective prior to the May Commission meeting, the department will be asking the Commission to approve an Adopted and Filed Emergency rulemaking simultaneously (referred to as "double barreling") with the Notice of Intended Action.

The Department is in the process of meeting with at least 10 representative Title V facilities to obtain preliminary input on where the fee cap should be set. The Department plans to propose, with the support of business and industry representatives, a fee cap that will allow for expected decreases in actual emission rates coupled with expected increases in basic costs for personnel and services, over at least the next three state budget cycles. The fee cap was last raised in April 2000 from \$25 to \$29.

If public comment during the Notice of Intended Action period informs the Commission that the preliminarily set fee cap level (established in the Adopted and Filed Emergency rulemaking) should be changed, the Commission will be able to do so in their final action in May.

The proposed Title V fee cap rulemaking schedule for the Notice of Intended Action and the Adopted and Filed Emergency is as follows:

Item	Notice of Intended Action	Adopted and Filed Emergency
EPC meeting (for Information)	January 21, 2003	January 21, 2003
EPC meeting (Notice of Intended Action and Adopted and Filed Emergency Notice)	February 17, 2003	February 17, 2003
Notice publication date	March 19, 2003	--
Public hearing and close of comment	April 8, 2003	--
First possible adoption date	April 23, 2003	--

EPC meeting (for Final adoption)	May 19, 2003	--
Adopted filing deadline	May 23, 2003	February 28, 2003
Adopted publication date	June 11, 2003	March 19, 2003
First possible effective date	July 16, 2003	April 23, 2003

McGraw, Jim

The purpose of this is basically to allow for an increase in the maximum dollar per ton fee cap. It is specified currently in Chapter 22.1061. In the way of some background on this, basically every May under rule right now, Chapter 22.1061, the Commission was asked to approve on the Title V Fee for the coming fiscal year. This fee is what Title V affected facilities pay on the first 4,000 tons of actual emissions for each pollutant they emit. Currently, for the state fiscal year 2003 that fee is set at \$29 per ton. That is also a current fee cap, \$29 per ton. Our current budget projections and estimation of what actual emissions are going to be for 2002 indicate that fiscal year 2004 we are going to be exceeding that \$29 per ton fee cap. This is primarily due to increases in staff salaries through negotiated contract increases. Now we met with our representative group of Title V fee payers back on January 9 to go over our proposals and discuss with them in depth our budget projections. Basically, we reviewed with them our budget projections for the next fiscal years, 04, 05, and 06. That included our expected increases in cost due to personnel changes, basically as we mentioned had been negotiated through contracts. Primarily, the changes specifically are 6 to 6 ½ percent increases in each of those fiscal years. That is not only for DNR FTE's in Air Quality but also affects all of our contractors. Primarily UHL supplies most of our ___ support, staff test observation, missions and employee support, UNI, the DNR Waste Reduction Center, and also our local programs for Polk and Linn County. These increases affecting across the board all these different contractors, in addition to just DNR staff. We also discussed at length with them what we think the estimated actual emissions would be for 2002. That is the year the actual emissions are going to be used to calculate the 2004 fees. Primarily, since 1997 we have been seeing a decrease in actual emissions overall. There was a slight increase in 2000, primarily due to a change in some of the acid rain affected sources no longer being sent the payment of fees. We also have been looking at trends in the economy, trends in power production, etc. We will expect to see an increase in emissions being reported over the next couple of years in those sectors. Based on that information, we are looking at about 215,000 or 220,000 tons of actual emissions. We think 215 will probably be the bottom for the next couple of years. As a point of reference, for 2003 the actual emissions were about 226,000 tons, so we are expecting another decrease. We also looked with this group on January 9 at other options to generate revenue and also to maintain our contracted services. While obviously no one, including the Department, wants to see the Title V Fee Cap increase, there was a general consensus that there would not be objections to us doing that at this time. Several of the members, but one of them specifically, was adamant about the Department looking at other ways to generate revenue to help offset some of the expenditures that are being covered by Title V fees right now. As an outcome of that, we agreed later this year to start looking at construction permitting fees for our quality construction permits and also for different kinds of notifications that require ___ under Air Quality. Obviously, a big part of that is going to be trying to create a special fund where any fees that we bring in to the construction permitting process will end up back in Air Quality instead of the general fund. So kind of a two-track approach will be working with ___ stakeholders starting in June to determine the extent of any feed program and what those should be. Also we will have a legislative proposal the next

legislative session and try and establish a special fund just for Air Quality. We are trying to double barrel this rulemaking basically so that the fee cap change will be in place _____. If you look at the second page _____ there is a table on there, and it has a Notice of Intended Action column and a _____ emergency column. It kind of shows the significant dates there for both those rulemakings. You see in February where we come in with a Notice of Intended Action following the standard rulemaking track. The first possible effective date for an increase in the Title V Fee Cap will be July 16, 2003, which is after the May EPC meeting date when EPC will be asked to set a fee that is higher than \$29 per ton. With the adopted _____ emergency, the first possible effective date for a new fee cap would be April 23. That would be before the May EPC meeting. We would still be able to go ahead and incorporate the public comment into this because we will still have a public comment and public hearing to develop an intended action. At the May EPC meeting, if from the result of public comment, we determine the fee should be lower than what was established in the Adopt and Follow Emergency then the Commission will be able to reset the fee accordingly at the May meeting. It should be noted that the last increase in our Title V Fee Cap was April of 2000. We went from \$25 to the current \$29 per ton. We are going to be proposing to go this time from \$29 to \$39 per ton, a \$10 increase in the current Title V Fee Cap.

Peckumn, Jerry

Is this 4,000 tons of each pollutant.

McGraw, Jim

For the first 4,000 tons of actual emission for each pollutant.

Peckumn, Jerry

What is your total budget then?

McGraw, Jim

For this current fiscal year? Just for Title V?

Peckumn, Jerry

Yes.

McGraw, Jim

Our total budget for the entire quality bureaus, just under \$10 million. The Title V portion of that for the current fiscal year based on \$29 per ton and 226,000 tons of actual emissions in 2001, we have a total revenue for Title V of approximately \$6.7 million.

Peckumn, Jerry

\$6.7 million.

McGraw, Jim

Yes.

Peckumn, Jerry

If we raise the cap to \$39, are you going to use the entire amount?

McGraw, Jim

No. It is important to note that all we are trying to do is increase the cap so that we don't have to come back every year and ask to increase the cap. That is why we have taken it out for the next three fiscal years. The scenario we believe is fairly plausible looking at increases in salaries for both DNR and for contractors. So the goal is to hopefully not have to ask for another increase in the fee cap anytime soon if that will work.

Peckumn, Jerry

Now, who pays these? Who are the industries that pay these?

McGraw, Jim

Title V affected sources, basically sources that emit more than 100 tons per year. The major sources, power plants, cement plants, etc.

Peckumn, Jerry

Okay. Manufacturing plants.

Murphy, Kathryn, Chair

Was that a \$25 per ton? Wasn't that set for a long period of time? There was one right before. There was one that was, when I first came on the commission, it seemed like it had been in place forever.

Priebe, Gary C., Vice-Chair

I think it was \$16. Yeah, it was back in the good old days.

Murphy, Kathryn, Chair

Then we went to the \$25 and that was a ____.

Venner, Rita, Secretary

I think when I came on the commission it was \$19.

Murphy, Kathryn, Chair

Okay, so there were some in between.

Venner, Rita, Secretary

We have never had a \$10 jump.

McGraw, Jim

Basically, our fee started out in 1993 at \$24 per ton, and the following year we actually lowered it to \$12 per ton. Then we had a \$22.10 for 1995, 1996. We raised it to \$21.10 in 1997. In 1998 we moved it to \$23.10, \$24.50 in 1999, \$25.40 in 2000. That is after we raised the fee cap and then for 2001 it was \$29, which is our current _____ in the current fiscal year.

Unknown

Those are the years for the actual emissions.

Murphy, Kathryn, Chair

The year as I remember that we lowered it was because of the fact we had collected so much there was a large extra amount.

Fitzsimmons, Catherine

We hadn't staffed up yet. We were going from a staff of 20 up to 60, and we hadn't gotten everything staffed up.

McGraw, Jim

We started collecting that early also, didn't we?

Fitzsimmons, Catherine

It actually started as what is called the air toxic state. That began back in 1990, and that was just being collected on the air toxic emissions from the major sources. We have 300 major sources now that are subject to this. In fact, this summer we spent some time with our fee payers trying to look at alternative fee structures. They were interested in seeing what if we had a 6,000 time cap or if we dropped the cap. We looked at a variety of proposals, brought forward one that there was really no consensus, and the group decided just to drop it from changing it.

Venner, Ruth, Secretary

Do the Title V people know that you are thinking of \$29 to \$39.

McGraw, Jim

Yes. That is what we discussed with them at length in our meeting with the representative group basically the largest fee payers and representatives from ABI, Association of Business and Industry. Not all the qualified feed payers know that at this time, but the ones that this is going to impact the most are aware of it.

Fitzsimmons, Catherine

Most of the fee payers are on our list server group that we send out every week. We send out updates and primarily technical information to that group of people. We will send out a list to them right after this meeting to say this is a rule making going forward, that there will be public comment, and we would appreciate any comment they give us on it. Again, it is for a three-year period and it only looks at this increase being for the regular staff salary increases. What we did, though, is it is not just for that, what I did is I said I'd like to look at three and one half years' worth of increases because we figured that if we are replacing copiers and a five-year schedule replacement on computers and some other regular projects which we went through in detail with the fee payer group that would take up some additional money. We wanted to try to make sure we would actually make it through three years without doing that. One of the things I wanted to comment on, Jim talked about, is the construction permit fee. That has been something that the industry group has on and off again said is this something we could do to _____ part of these fees, particularly for construction permitting. We have said we need to talk to more people about it and see whether or not there is any real interest in that and whether or not it something that the department wants to pursue. So, it is something that we heard strongly from this group that they were interested in and their biggest fee payers and believed

that some of that cost should be spread out. It is something that is really not decided on yet as far as the direction by the department.

McGraw, Jim

I also want to note, too, when we sent out the agenda and information for this meeting with the fee payers, ABI also circulated to, I believe all their members, most of them anyway so I know a lot of other people are aware of but didn't come to the meeting.

Fitzsimmons, Catherine

Wayne just asked me a question of what the federal fee cap is.

McGraw, Jim

I can actually give you the exact number here for the current fiscal year.

Fitzsimmons, Catherine

What that is is the federal government established \$25 per ton back in 1994 as being the presumptive minimum that a state would have to collect per ton to support their program, and then it increases on a regular basis of cost living or consumer price index.

McGraw, Jim

Right now it is currently set at \$37.86, and that is for 2003. They do theirs on a calendar year. They increase it every year, depending on consumer price index. This last increase was about a 1.6 percent increase. We went through, just for comparison purposes, and we increased this value 1.6 percent for each of the next three fiscal years. Our \$39 per ton still comes in below what their presumptive Title V Fee would be for 2006. Again, that is just a presumptive part 71. That is if they were to take over our program today in property and permits. That would be the minimum they would charge. By no means is that what they would actually charge. It would probably at least double that in the \$50 to \$60 range. This is just a bottom to minimum that they would charge per year to do that.

Fitzsimmons, Catherine

When we come back to you next month, we will have information for you on the specific fee levels that other states are currently establishing right now. It ranges, for example, Nebraska just set theirs at \$50. Missouri is at \$33 last year. I don't know what their new fee will be. We will provide you with an update on that.

McGraw, Jim

As usual, we will be at the March EPC meeting presenting our draft budget for the next fiscal year.

Murphy, Kathryn, Chair

Any other questions? Thank you, Jim and Catherine.

INFORMATION ONLY

REFERRALS TO THE ATTORNEY GENERAL

Mike Murphy, Bureau Chief of Legal Services, presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

M.A., Inc. and Mark Anderson [Burlington] wastewater penalty collection. [Tabled]

Motion made by Michael Murphy to take this item off the table. Rita Venner, seconded the motion. Motion carried unanimously.

ITEM WAS TABLED

Murphy, Mike

We are asking that you refer MA, Inc. and Mark Anderson. We had this item on last month, and Mr. Anderson requested that it be delayed a month. He had planned to be here. He called today and indicated he is ill and could not make it. I am sure his request is that we delay it again. We would resist that. This involves orders issued last April that were appealed and went to hearing and were affirmed, with the exception of reducing the penalty to \$14,000 in August. _ Appeal and those penalties became due November. We did not include the whole history here. Basically what we have been dealing with Mr. Anderson's two mobile home parks for I believe it is about 12 years. There were at least three administrative orders prior to this. Basically, I think we have exhausted our efforts in dealing with this situation. It would be a waste of time to delay it another month.

Darrell Hanson moved to refer M.A.Inc and Mark Anderson, Terrance Townsend seconded the motion. Motion carried unanimously.

ITEM WAS REFERRED

MONTHLY REPORTS

Wayne Gieselman, Administrator for Environmental Services Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Manure Releases Report
5. Enforcement Status Report
6. Administrative Penalty Report
7. Attorney General Referrals Report
8. Contested Case Status Report
9. Waste Water By-passes Report

PROPOSAL	NOTICE TO COMM.	NOTICE PUBLISHED	ARC #	RULES REV. COMM.	HEARING	COMMENT PERIOD	FINAL SUMMARY TO COMM.	RULES ADOPTED	RULES PUBLISHED	ARC #	RULES REV. COMM.	Rule Effective
1. Un. 2 - Public Records and Information Practices (Emission and Effluent Data Definitions)	10/21/02	11/13/02	2097B	12/11/02	-----	12/03/02	1/21/03	*1/21/03	*2/19/03		*3/04/03	*3/12/03
2. Ch. 7 - Rules of Practice in Contested Cases	10/21/02	11/13/02	2099B	12/11/02	-----	12/03/02	1/21/03	*1/21/03	*2/19/03		*3/04/03	*3/12/03
3. Ch. 20, Ch. 28 - Ambient Air Quality Standards (CAFO)	7/22/02	8/21/02	1876B	9/10/02	9/17, 24, 30: 10/02	10/04/02	*2/17/03	*2/17/03	*3/19/03		*4/08/03	*4/23/03
4. Ch. 22 - Definition of Stationary Source Categories	5/20/02	6/12/02	1710B	7/09/02	7/11/02	7/26/02	11/18/02	11/18/02	12/11/02	2180B	1/07/03	1/15/03
5. Un. 4B - Ambient Air Sampling Manual	8/19/02	9/18/02	1990B	10/09/02	10/09, 10, 23/02	11/01/02	*2/17/03	*2/17/03	*3/19/03		*4/08/03	*4/23/03
6. Un. 64 - Water Quality Standards; Ch. 72 - Criteria for Approval	12/16/02	*1/08/03		*2/11/03			*3/17/03	*3/17/03	*4/16/03		*5/13/03	*5/21/03
7. Ch. 65 - Animal Feeding Operations - Interim Matrix	7/22/02	8/21/02	1878B	9/10/02	9/10/02	9/10/02	NOTICE OF TERM 11/18/02	11/18/02	12/11/02	2179B	1/07/03	1/15/03
8. Un. 65 - Animal Feeding Operations - County Construction Evaluation Resolutions	8/19/02	9/18/02	1989B	11/12/02	10/08/02	10/08/02	12/16/02	12/16/02	*1/08/03		*2/04/03	*2/12/03
9. Ch. 65 - Animal Feeding Operations - Minimum Separation Distance; Annual Compliance Fee; Interim Annual Updates; Site Inspections; Construction Permit Application Review; (Table 6 Amendment); Master Matrix	10/21/02	11/13/02	2101B	12/03/02	12/05/02	12/05/02	1/21/03	*1/21/03	*2/19/03		*3/04/03	*3/12/03
10. Ch. 65 - Animal Feeding Operations; Ch. 70 - Flood Plain Development; Ch. 72 - Criteria for Approval (Confinement Feeding Operations on Flood Plains)	12/16/02	*1/08/03		*2/11/03			*3/17/03	*3/17/03	*4/16/03		*5/13/03	*5/21/03
11. Ch. 103 - Sanitary Landfills (Resubmission); Ch. 103 - Sanitary Landfills - Coal Combustion Residue; Ch. 112 - Sanitary Landfills - Biosolids Monofills; Ch. 113 - Sanitary Landfills - Municipal Solid Waste; Ch. 114 - Sanitary Landfills - Construction & Demolition Wastes; Ch. 115 - Sanitary Landfills - Industrial Monofills (Adoption); Ch. 100 - Scope of Title Definitions Forms - Rules of Practice; Ch. 102 - Permits; Ch. 109 - Special Waste Authorizations; Ch. 111 - Financial Assurance Requirements for Municipal Solid Waste Landfills (Amendments); Ch. 110 - Design, Construction and Operation Standards for solid waste management facilities (name change to Hydrogeologic Investigation and Monitoring Requirements).	8/19/02	9/18/02	1988B	10/09/02	10/08/02	10/08/02	11/18/02	11/18/02	12/11/02	2169B	1/07/03	1/15/03
12. Ch. 107 - Beverage Container Rules	9/16/02	10/16/02	2049A	*11/12/02	11/07/02	11/07/02	12/16/02	12/16/02	*1/08/03		*2/04/03	*2/12/03
13. Un. 108 - Chemical Use Determinations Solid By-Products as Resources and Alternative Cover Material	11/18/02	12/11/02	2166B	1/07/03	1/08/03	1/08/03	*2/17/03	*2/17/03	*3/19/03		*4/08/03	*4/23/03
14. Un. 116 - Registration of Waste Tire Haulers	12/16/02	*1/08/03		*2/11/03			*3/17/03	*3/17/03	*4/16/03		*5/13/03	*5/21/03
15. Ch. 117 - Waste Tire Facilities (Set-Back Distances)	10/21/02	11/13/02	2100B	12/11/02	12/04/02	12/04/02	1/21/03	*1/21/03	*2/19/03		*3/04/03	*3/12/03
16. Un. 118 - Unscraped Appliance Remanufacturing	3/18/02	4/17/02	1540B	5/15/02	5/14/02	5/14/02	*2/17/03	*2/17/03	*3/19/03		*4/08/03	*4/23/03

Monthly Variance Report
December, 2002

Item No.	Facility	Program	Engineer	Subject	Decision	Date
1	Bartlett Grain Company LP-Hamburg	Air Quality		Permit Requirements	Approved	12/27/02

2	University of Iowa-Iowa City	Air Quality		Permit Requirements	Denied	12/04/02
3	Fort Dodge, City of	Wastewater Construction	McClure Engineering Co.	Financing-Eligible Costs	Approved	12/09/02
4	Stuart, City of	Wastewater Construction	Veenstra & Kimm, Inc.	Sewer Grade	Approved	12/20/02
5	Wilshire Mobile Home Park-Warren County	Wastewater Construction	Abild Engineering Co.	Lagoon Riprap	Approved	12/02/02
6	Cherokee, City of	Wastewater Operation		Monitoring Frequency	Approved	12/19/02
7	Cass County Sanitary Landfill	Solid Waste	Barker-Lemar Engineering Consultants	Groundwater Monitoring	Approved	12/04/02
8	Metro Park East Sanitary Landfill-Polk County	Solid Waste	HDR Engineering, Inc.	Liner	Approved	12/24/02
9	Muscatine County Sanitary Landfill	Solid Waste	Fox Engineering Associates, Inc.	Liner	Approved	12/10/02
10	Denmark Water Company	Watersupply Construction	Van Wiinkle-Jacob Engineers	Duplication Requirements	Denied	12/19/02
11	Lally Pipe & Tube-(Well Casing Pipe For Use by Various Iowa Well Contractors)	Watersupply Construction	Timothy C. Lally	Construction Materials	Approved	12/19/02

During the period December 1, 2002, through December 31, 2002, 35 reports of hazardous conditions were forwarded to the central office. A general summary and count by field office is presented below. This does not include releases from underground storage tanks, which are reported separately.

			Substance			Mode				
Month	Total	Agri-	Petroleum	Other	Transport	Fixed	Pipeline	Railroad	Fire	Other*

January 2003

Environmental Protection Commission Minutes

	Incidents	chemical	Products	Chemicals	Facility					
October	55 (73)	4 (9)	40 (51)	11 (13)	18 (28)	32 (36)	1 (2)	2 (0)	0 (2)	2 (5)
November	56 (72)	13 (8)	28 (49)	15 (15)	17 (28)	36 (33)	0 (2)	0 (1)	1 (0)	2 (8)
December	35 (57)	2 (2)	24 (44)	9 (11)	10 (22)	21 (28)	1 (2)	2 (0)	0 (2)	1 (3)
January	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
February	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
March	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
April	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
May	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
June	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
July	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
August	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Total	146 (202)	19 (19)	92 (144)	35 (39)	45 (78)	89 (97)	2 (6)	4 (1)	1 (4)	5 (16)

(numbers in parentheses for same period last year)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
4	4	11	6	8	2

**The "Other" column includes the categories from the database of – Dumping, Fire, Theft, Vandalism, Unknown and Other".

During the period December 1, 2002, through December 31, 2002, 5 reports of manure releases were forwarded to the central office. A general summary and count by field office is presented below.

Month	Total Incidents	Feedlot Application Impacts	Confinement Water	Land	Transport	Hog	Cattle	Fowl	Other	Surface
October	10 (4)	0 (0)	5 (2)	1 (2)	4 (0)	9 (3)	1 (0)	0 (1)	0 (0)	1 (2)
November	12 (9)	0 (1)	4 (2)	3 (2)	5 (4)	12 (8)	0 (1)	0 (0)	0 (0)	0 (1)
December	5 (3)	0 (0)	1 (2)	0 (0)	3 (1)	3 (2)	0 (0)	1 (1)	0 (0)	0 (1)
January	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
February	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
March	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
April	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)

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May	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
June	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
July	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
August	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Total	27 (16)	0 (1)	10 (6)	4 (4)	0 (0)	24 (13)	1 (1)	1 (2)	0 (0)	1 (4)

(numbers in parentheses for the same

period last year)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
0	3	0	1	1	0

Name, Location and Field Office No.	Program	Alleged Violation	Action	Date
Welch Oil, Inc., Williams (2)	Drinking Water	Monitoring/Reporting – Bacteria, Nitrate; Public Notice	Order	11/25/02
Shenandoah, City of (4)	Wastewater	Effluent Limits	Amended Order	11/25/02
Lawrence "Bub" Korver d/b/a Korver Development Co., Orange City (3)	Wastewater	Operation Without Permit	Consent Amendment	11/25/02
M. Poe Investments, Inc., d/b/a Advanced Technologies Corporation, Cedar Falls (1)	Air Quality	Asbestos	Consent Amendment	12/02/02
John Hahn, Washington Co. (6)	Animal Feeding Operation	Prohibited Discharge – Open Feedlot; Water Quality Violations – General Criteria	Order/Penalty \$2,000	12/09/02
The Farmers Cooperative Society d/b/a Wesley Coop, Wesley (2)	Air Quality	Open Burning	Consent Amendment	12/09/02

Mike Coady and Tom Maday d/b/a Silver Lake Finishing, Kossuth Co. (2)	Animal Feeding Operation	Land Application Separation Distance; Uncertified Applicator	Order/Penalty \$1,500	12/11/02
Henry Pieper L.C., Lee Co. (6)	Animal Feeding Operation	Failure to Submit Plan; Prohibited Discharge – Confinement; Failure to Report a Release	Order/Penalty \$3,000	12/11/02
Langman Construction, Inc., Jasper Co. (5)	Wastewater	Stormwater – Pollution Prevention Plan Violation	Order/Penalty \$10,000	12/11/02
C. J. Moyna & Sons, Inc., Jasper Co. (5)	Wastewater	Stormwater – Pollution Prevention Plan Violation	Order/Penalty \$10,000	12/11/02
Dave Jones, Union Co. (4)	Animal Feeding Operation	Uncertified Applicator	Order/Penalty \$1,550	12/11/02
Monsanto Co., Aplington (2)	Air Quality	Construction Without Permit	Order/Penalty \$3,000	12/11/02
Richard C. Prusha, Elberon (5)	Wastewater	Certified Operator Discipline	Consent Restriction of Certification	12/11/02
Alva Parker, Ringgold and Union Co. (4)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Amended Order	12/12/02
Charles Butler, Iowa Falls (2)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Consent Amendment	12/12/02
Butler Custom Pumping, Inc., Robert Butler, Adams Co. (4)	Animal Feeding Operation	Land Application Separation Distance; Failure to Report a Release; License Discipline	Order/Penalty \$2,500	12/12/02
Merrell Butler,	Animal	Land Application	Order/Penalty	12/12/02

Adams Co. (4)		Feeding Operation	Separation Distance; Failure to Report a Release; License Discipline	\$1,000	
Glen Samuleson, Adams Co. (4)		Animal Feeding Operation	Land Application Separation Distance; Failure to Report a Release; License Discipline	Order/Penalty \$1,000	12/12/02
Henderson, City of (4)		Wastewater	Compliance Schedule	Order	12/12/02
Taylor Company, Ind. d/b/a Taylor Quik-Pik, Shelby (4)	Oil	Air Quality	Fugitive Dust	Consent Amendment	12/17/02
Mike Girres, Kossuth Co. (2)		Animal Feeding Operation	Prohibited Discharge – Confinement; Freeboard; Failure to Report a Release	Order/Penalty \$2,000	12/18/02
Kuntz Farms, Inc., Des Moines Co. (6)		Animal Feeding Operation	Failure to Empty Discontinued Facilities	Order/Penalty \$1,000	12/18/02
Ankeny, City of (5)		Wastewater	Discharge Limits	Order/Penalty \$10,000	12/24/02
Anthony Wendler, Emmet Co. (3)	R.	Animal Feeding Operation	Prohibited Discharge – Confinement; Failure to Report a Release; Illegal Disposal	Order/Penalty \$3,000	12/24/02
Landfill of Des Moines, Inc., Polk Co. (5)		Solid Waste	Compliance Schedule	Order/Penalty \$10,000	12/24/02
Donald Kurtenbach, Chickasaw Co. (1)		Animal Feeding Operation	Prohibited Discharge – Confinement	Order/Penalty \$3,000	12/24/02
U.S. Petro, Inc.; SSJG		Underground Tank	Financial Responsibility	Order/Penalty \$32,690	12/24/02

Petroleum, Inc.;
Sukhdev
Singh, Muscatine,
Davenport,
Bettendorf (6) (5
AO's)

Midway Oil Co.; David A. Requet; John R. Bliss, (11 Sites, 11 AOs) (6, 5, 1)	Underground Tank	Remedial Action	Order/Penalty \$44,900	12/24/02
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Diwan, LLC; Ranbir Thakur, Davenport (6)	Underground Tank	Financial Responsibility	Order/Penalty \$10,000	12/24/02
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Allison, City of (2)	Air Quality	Open Burning	Consent Amendment	12/30/02
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Cordes Excavating, LLC; Clint Cordes, Allison (2)	Air Quality	Open Burning	Consent Amendment	12/30/02
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Estherville, City of (3)	Wastewater	Compliance Schedule	Amended Order	12/31/02
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Mount Ayr, City of (4)	Wastewater	Discharge Limits	Order	12/31/02
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Lidderdale, City of (94)	Drinking Water	Operation Permit	Without Order/Penalty \$500	12/31/02
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Minden, City of (4)	Wastewater	Compliance Schedule; Discharge Limits	Amended Order	12/31/02
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Larry Whitehead, Sidney (4)	Underground Tank	Financial Responsibility	Order/Penalty \$10,000	12/31/02
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NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Bill Dettman d/b/a Dettman Oil Co. (Fonda)	UT	2,800	9-15-94
M & L Service; Loyal Dorr; Mark Courtney (Guthrie Center)	UT	1,000	8-30-95
Keith Owens and Howard Maurer (Wilton)	UT	3,100	1-01-96
Ronald Slocum; Tammy Lynn Determan (Marshall Co.)	SW	10,000	5-24-97
Sale-R-Villa Const., Inc. (Perry)	AQ	7,000	4-28-98
Otter Creek Station (Dubuque Co.)	WS	325	3-04-99
Charlie's Supper Club (Algona)	WS	100	7-01-99
Hidden Valley Mobile Home Court (Washington Co.)	WS	200	7-26-99
* Hidden Valley Mobile Home Park (Washington)	WW	200	12-12-99
Dorchester Supper Club (Dorchester)	WS	100	3-08-00

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Plain Salvage Inc. (Sac City)	AQ/SW	10,000	5-12-00
Don Casterline; Myron Casterline (Van Wert)	UT	2,000	6-14-00
R & R Ranch (Osceola)	WW	10,000	8-30-00
Robert Watson (Griswold)	UT	1,700	9-03-00
Mt. Joy Mobile Home Park (Davenport)	WS	1,500	11-23-00
Country Stores of Carroll, Ltd. (Carroll)	UT	4,700	1-17-01
Alice Hillhouse; Hillhouse Real Estate Corp. (Denison)	UT	3,000	2-28-01
Paul Riha d/b/a Riha Auto Sales (Vining)	UT	1,200	5-06-01
Iowa Skate U (Iowa Falls)	WS	500	5-11-01
Dallas O'Neal; Linda O'Neal (Council Bluffs)	UT	750	6-05-01
Teckenburg, Inc.; Jerry Teckenburg (Cedar Rapids)	UT	6,380	7-06-01
David and Marie Phillips (Milo)	WW	1,300	7-09-01
T V S, Inc.; Thomas Kockler d/b/a The Van Shack (Manly)	AQ	2,000	7-28-01
Keith Craig; The Farm (Council Bluffs)	UT	3,890	8-08-01
James Harter (Fairfield)	WW	1,800	8-01-01
Carpenter Bar & Grill (Carpenter)	WS	100	9-28-01
Minnesota Rubber Company (Mason City)	AQ	1,000	9-30-01
* R.V. Hopkins, Inc. (Davenport)	AQ	Int.	10-01-01
Mark Buringrud fdba Carpenter Bar & Grill (Carpenter)	WS	2,500	10-26-01
Jerry Feilen and Rick Bain (Pottawattamie Co.)	AQ/SW	4,000	10-27-01
Louisa County Regional Solid Waste Agency	SW	1,250	10-27-01
Bulk Petroleum Corp.; Break Point Stores #537 (Bondurant)	UT	1,000	12-02-01
Bulk Petroleum Corp.; Four Mile Texaco #536 (Des Moines)	UT	1,000	12-02-01
Elite, Ltd.; FS Energy Fuel 24, LLC; Roger Kanne	UT	3,400	12-03-01
# Dave Hansel (Hamilton Co.)	AFO	1,300	1-26-02
Crestview Trailer Park (Ames)	WS	2,500	1-28-02
Jolly Roger Recreation and Marine, Inc. (North Liberty)	WW	2,000	2-05-02
Coralville, City of	WW	3,000	2-11-02
# Norm O'Bannon d/b/a O'Bannon Finishing (Buena Vista Co.)	AFO/SW	2,500	2-14-02
# Troy DeGroote; Casey DeGroote (Butler Co.)	AFO/AQ/SW	1,100	3-08-02
Days Inn 2 nd Addition (Williamsburg)	WS	10,000	4-07-02
* Steve Friesth (Webster Co.)	AQ/SW	450	4-15-02
* Kiefer Built, Inc. (Kanawha)	AQ	2,500	5-30-03
Iowa Coaches, Inc.; David Sherman (Dubuque)	UT	3,960	5-03-02
Honey Creek Campground (Crescent)	WS	1,000	4-30-02
Moonshine Tap (New Hampton)	WS	300	4-30-02
Iowa Skate U (Iowa Falls)	WS	600	5-11-02
# Practical Pig Corporation (Clinton Co.)	AFO	2,000	5-26-02
John Jolin; Michael Kolbold (Sioux City)	UT	5,760	6-23-02
Ellis Implement, Inc.; Douglas Shaffer (Coggon)	UT	2,170	6-25-02
Sid's Gas & Groceries (Forest City)	WS	200	6-26-02
Coin, City of	WS	250	6-28-02
St. John's Lutheran Church (Greene)	WS	250	7-02-02
Dave Paplow (Indianola)	AQ/SW	5,000	7-05-02
Leonard Anderson (Linn Grove)	UT	1,160	7-09-02
Mitchell Town Pump (Mitchell)	WS	500	7-09-02
Air Bears II (Thompson)	WS	300	7-13-02
Robert Marburger (Sabula)	UT	2,940	7-15-02
Meadow Mist Motel (Fayette Co.)	WS	500	8-12-02
Rocky Knoll Mobile Home Park (Forest City)	WS	10,000	8-18-02
Park View Motel (Oelwein)	WS	750	9-06-02
* Duane Hanson d/b/a Cedar Valley Tire Recycling (Allamakee Co.)	SW	1,750	9-15-02
Brett George d/b/a Cedar Valley Tree Service; John Sohm	AQ/SW	1,750	9-15-02
Midway Oil Co.; David Requet (Davenport)	UT	6,430	9-20-02
#*Mark Pearson (Adams Co.)	AFO	165	9-23-02
Dan Carnicle; Beaver Service & Repair; Sharon Carnicle	UT	2,500	10-04-02
# Kenneth Kline; Lynn Kline (Harrison Co.) SEP	AFO	3,500	10-04-02
* John Smith d/b/a Four Corners Tap (Lockridge)	AQ/SW	350	10-15-02

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Braddyville, City of	WW	3,500	10-31-02
M.A., Inc.; Spring Grove Mobile Home Park (Burlington)	WW	7,000	11-01-02
M.A., Inc.; Westside Park for Mobile Homes (Lee Co.)	WW	7,000	11-01-02
Dale Schaffer (Union Co.)	AQ/SW	10,000	11-05-02
Thombert, Inc. (Newton)	AQ	2,500	11-14-02
Matter's Ballroom (Decorah)	WS	300	11-29-02
*#Roger Bockes, et. al. (Tama Co.)	AFO	1,500	12-01-02
Van Meter Development Corp.; Whispering Pines (Van Meter)	WW	2,000	12-01-02
Sapp Bros. Truck Stops, Inc. (Percival)	WS	8,000	12-01-02
Mitchell County; Mitchell County Engineer	AQ/SW	375	12-12-02
Trajet Products, Inc. (Glenwood)	AQ	7,000	12-14-02
Monte Lapel (Crawford Co.)	SW	1,300	12-15-02
* Joe & Mary Schuster d/b/a Better-Flo (Callendar)	AQ/SW	700	12-15-02
Wilbur McNear d/b/a McNear Oil Co. (Onawa)	UT	5,930	12-17-02
Audubon, City of	WW	10,000	12-18-02
Finley Mondia (West Chester)	UT	6,430	12-23-02
Lawrence Korver d/b/a Korver Development (Orange City)	WW	750	12-31-02
*#Robert Fisher (Hamilton Co.)	AFO	1,300	1-01-03
* Allison, City of	AQ	3,500	1-01-03
Harry F. Trafton; Trafton Enterprises; Interstate Lounge	UT	6,800	1-13-03
Jeff Reed d/b/a Reed's Service (Lenox)	UT	7,250	1-12-03
* Paul L. Nagle (Clear Lake)	AQ	700	1-15-03
* George Redman (Mitchellville)	AQ	2,267	1-15-03
*#Jason Strike (Allamakee Co.)	AFO	300	1-15-03
* Winter Mobile Home Park (New Hampton)	WS	550	2-15-03
# Carl Simon (Dubuque Co.)	AFO	5,000	1-17-03
Taylor Oil Co., Inc.; Taylor Quik-Pik (Shelby)	AQ	500	1-17-03
# Mike Coady; Tom Maday d/b/a Silver Lake Finishing	AFO	1,500	2-14-03
C.J. Moyna & Sons, Inc. (Elkader)	WW	10,000	2-14-02
Langman Construction, Inc. (Bettendorf)	WW	10,000	2-14-03
Monsanto Company (Aplington)	AQ	3,000	2-14-02
# Glen Samuelson (Adams Co.)	AFO	1,000	2-18-03
# Merrell Butler (Adams Co.)	AFO	1,000	2-18-02
# Butler Custom Pumping, Inc.; Robert Butler (Adams Co.)	AFO	2,500	2-18-02
# Mike Girres (Kossuth Co.)	AFO	2,000	2-18-02
# Henry Pieper L.C. (Lee Co.)	AFO	3,000	2-22-03
*#Cedar Valley Egg Farm (Benton Co.)	AFO	2,000	3-01-03
Midwest Farmers Coop (Sheldon) Natural Resources Damages	WW	75,000	6-30-03
* Quality Mat Co., Inc. (Waterloo)	AQ	2,863	12-15-03
Richard Ogden (Manchester)	WS	2,500	-----
Independence Mobile Home Park (Independence)	WS	800	-----
Deer Ridge Estates (Ottumwa)	WS	100	-----
Rayburn Court for Mobile Homes (Mason City)	WS	500	-----
Allan Scott (Marion Co.)	SW/WW	1,150	-----
Sanborn P & L, Inc.; Douglas R. Bras (Sioux City)	UT	3,040	-----
# John Hahn (Washington Co.)	AFO	2,000	-----
# Dave Jones (Union Co.)	AFO	1,550	-----
Alva Parker (Ringgold/Union Co.)	AQ/SW	10,000	-----
# Kuntz Farms, Inc. (Des Moines Co.)	AFO	1,000	-----
U.S. Petro, Inc.; SSJG Petroleum; Sukhdev Singh	UT	32,690	-----
Midway Oil Co.; David Requet; John Bliss	UT	44,900	-----
Diwan, LLC; Ranbir Thakur (Davenport)	UT	10,000	-----
Ankeny, City of	WW	10,000	-----
# Donald Kurtenbach (Chickasaw Co.)	AFO	3,000	-----
# Anthony Wendler (Emmet Co.)	AFO/SW	3,000	-----
Landfill of Des Moines, Inc. (West Des Moines)	SW	10,000	-----

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Lidderdale, City of	WS	500	-----
Larry Whitehead (Sidney)	UT	10,000	-----
TOTAL		531,975	

The following cases have been referred to the Attorney General:

Donald P. Ervin (Ft. Dodge)	SW	669	3-05-90
Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Verna and Don Reed; Andrea Silsby (Union Co.)	SW	1,000	4-07-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	3,070	10-11-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	600	10-11-94
Paul Underwood d/b/a Underwood Excavating (Cedar Rapids)	AQ	4,000	3-24-95
Oscar Hahn (Solon)	AQ/SW	2,000	8-29-95
Randy Ballard (Fayette Co.)	FP	2,000	5-30-95
Long Branch Tavern (Monmouth)	WS	100	5-01-96
Long Branch Tavern (Monmouth)	WS	6,400	10-28-96
Long Branch Tavern (Monmouth)	WS	200	3-18-97
Dean Williams d/b/a Williams Oil Co. (Stuart)	UT	4,800	
Don Grell d/b/a Dodger Enterprises (Ft. Dodge)	AQ	10,000	2-16-93
Robert Jeff White (Dallas Co.)	AQ/SW	10,000	7-14-97
Edward Bodensteiner (Des Moines)	UT	3,200	3-31-96
James LaFollette d/b/a Jim's Tree Service; Kurt Douglas (Marion Co.)	AQ/SW	2,000	2-16-98
*Ken Frese (Keokuk Co.)	AQ/SW	175	1-09-97
Elery Fry; Allen Fry; Becky Sandeen (Monroe Co.)	SW	6,000	1-20-96
Patrick McCoy (Keokuk Co.)	AQ/SW	2,000	2-10-96
Russell Barkema d/b/a Barkema Construction (Wright Co.)	AQ/SW	1,000	3-31-98
Action Jack's Paintball Park (Polk Co.)	SW/FP	10,000	11-07-98
#*Harold Unternahrer (Washington Co.)	AFO	700	5-01-99
Hofer's Danceland Ballroom (Walford)	WS	3,200	4-19-97
Hofer's Danceland Ballroom (Walford)	WS	100	4-23-99
Ray Stamper; Bryan Zenor (Polk Co.)	SW	2,000	12-12-98
Russell Zook d/b/a Haskin's Recycling (Washington Co.)	AQ/SW	5,000	12-19-98
Phillips Recycling; Jeff Phillips (Story Co.)	WW	1,800	3-06-99
Greg Morton; Brenda Hornyak (Decatur Co.)	SW/AQ/WW	3,000	11-04-98
Jim Walker (Johnson Co.)	AQ/SW	3,000	2-14-99
Iowa Millenium Investors, LLC (Sumner)	UT	4,000	10-12-99
Daryl & Karen Hollingsworth d/b/a Medora Store (Indianola)	UT	10,000	
Ralene Hawkins d/b/a R.J. Express Salvage & Demolition; Clara Lindstadt (Des Moines Co.)	AQ/SW	1,000	7-01-00
Jim Ledenbach d/b/a Paper Recovery Company (Cedar Rapids)	SW	5,000	1-23-00
Organic Technologies Corp.; Tim Danley; Ken Renfro (Warren Co.)	SW/WW	10,000	5-26-00
* Lester Holmes; Todd Holmes (Lucas County)	AQ	4,000	10-15-00
Crestview Mobile Home Park (Ames)	WW	10,000	8-30-00
10 th Hole Food & Spirits (Calamus)	WS	1,000	3-14-00
Lindhahl & Sons Salvage (Boone)	AQ/SW	10,000	11-29-00
Wisconsin North dba National Petroleum, Inc. (Clinton)	UT	5,000	8-04-01
Wisconsin North dba National Petroleum (Clinton)	UT	2,840	8-21-01
Michael Bauer (Davenport)	UT	5,100	3-13-01
Dennis Seversson d/b/a Huxley Dry Cleaners (Huxley)	AQ	4,500	8-01-01
Bee Rite Tire Disposal; Jerry Yeomens (Marshall Co.)	SW	10,000	9-18-01
Marvin Oberly (Burlington)	WW	1,300	6-27-01
Richard Davis (Monroe Co.)	AQ	8,000	6-25-02
M-F Real Estate; Fred "Butch" Levell (Carter Lake)	HC	3,200	8-18-02
Ryan Barton; Theresa Barton (Kellerton)	AQ/SW	1,000	5-27-02
Jerry Chatfield; North Iowa Truck and Tractor (Floyd)	SW/WW	3,000	8-18-02
Mobile World, L.C. (Camanche)	WW	2,000	5-27-02
Vessel Systems, Inc. (Dubuque)	AQ	10,000	5-31-02
Oran Pub & Grill (Fairbank)	WS	100	6-03-02
Bog's Bar (Langworth)	WS	400	9-23-02
# John C. Kelso (Worth Co.)	AFO	1,500	7-29-02
TOTAL		201,954	

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The following administrative penalties have been appealed:

Titan Wheel International, Inc. (Walcott)	WW	10,000
Dennis Malone & Joanne Malone (Morning Sun)	UT	600
Dallas County Care Facility (Adel)	WW	2,500
Richard Sprague (Tripoli)	AQ/SW	5,000
Bellevue Golf Club, Inc. (Bellevue)	WS	300
Brittany Estates Addition (Manchester)	WS	4,000
Robert Frees; Elizabeth Mathes (Washington Co.)	SW	1,000
Robert Diehl (Clarke Co.)	WW/WS	5,000
* Duane Hanson d/b/a Cedar Valley Tire Recycling (Allamakee Co.)	SW	5,000
# Bernadette Ryan (Delaware Co.)	AFO	3,000
Dayton, City of	WW	10,000
Gerald and Judith Vens (Scott Co.)	FP	5,000
Affordable Asbestos Removal, Inc.; Jeffery Intlekofer (Ft. Madison)	AQ	10,000
# Iowa Select Farms, L.P.; AG Waste Consultants (Hamilton Co.)	AFO	3,000
# Dan Witt (Clinton Co.)	AFO	3,000
Twin Anchors R.V. Resort, Inc. (Story Co.)	WW	5,000
# Thomas and Jane Kronlage (Coggon)	AFO	3,000
Freisen of Iowa, Inc. (Storm Lake)	AQ	10,000
Linwood Mining & Minerals Co. (Davenport)	AQ	10,000
Duane Crees (Muscatine Co.)	AQ/SW	1,160
R. Excavating, Inc.; Randy Golden (Pottawattamie Co.)	WW	10,000
# Floyd Kroeze (Butler Co.)	AFO	3,000
Richard Thompson d/b/a/ Thompson Auto Parts (Story Co.)	WW/SW	1,000
# Burco Farms, Inc. (Buchanan Co.)	AFO	3,000
Wayne Wheatley; Wheatley Auto and Truck Service (Walnut)	UT	3,900
Eagle Investors dba Manson Ampride (Manson)	UT	4,650
Noble Ford Mercury, Inc. (Indianola)	WW	5,000
John Hoth (Tama)	UT	9,250
Tama Beef Packing, Inc. (Tama)	WW/SW	1,000
Bulk Petroleum Corp. dba Citgo No. 596 (Des Moines)	UT	1,600
Midway Oil Company (West Branch)	UT	7,300
Midway Oil Company (Davenport)	UT	5,790
Long Branch Maintenance Corp. (Earlham)	WW	5,000
Earlham, City of	WW	10,000
Lenertz, Inc.; Fred G. Lenertz; Lawrence Lenertz (Tama)	UT	10,000
Sir Fredericks, Inc.; Fred Scherle (Ankeny)	UT	2,280
Feeders Grain Supply; James & Carolyn Curtis (Corning)	WW/HC	6,000
LeMars, City of	WW	10,000
Dallas County Care Facility (Adel)	WW	5,000
# Max and Phyllis Graber; Burdean Graber (Washington Co.)	AFO	2,000
Keith Shoterau; Hopp Construction Co. (Shelby Co.)	WW	5,000
Roger Eblen; Eblen Develop.; Duane Menke; Negus-Sons (Whispering Woods - Council Bluffs)	WW	10,000
Robert Ward (Lee Co.)	WW	1,450
Partners Four Investments, Inc. (Marble Rock)	UT	5,280
Mike Messerschmidt (Martinsburg)	AQ/SW	500
Well's Dairy, Inc. (LeMars)	WW	10,000
William Habhab (Fort Dodge)	SW	1,500
Dennis Frederickson; Mark Frederickson (Cass Co.)	AQ/SW	5,000
Piper Motor Co.; Bruce Piper d/b/a Super Clean Car Wash	WW	10,000
Jones Co. Conservation Board; Central Park	WS	250
Arthur, City of	WW	2,000
# Avery Feeder Pig Co. (Humboldt Co.)	AFO	3,000
Wellington Environmental (Davenport)	AQ	4,000
# Swine Graphic Enterprises; ADL V Sow Farm (Clarke Co.)	AFO	1,000
James Wilson; Retha Wilson; William Wilson (Shenandoah)	UT	4,740
Emer Carlson (Fairfield)	AQ	6,500

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Deer Track Subdivision; F & J Enterprises (Mills Co.)	WW	4,000
ITWC, Inc. (Brooklyn)	AQ	7,500
Marion F. Murray; Murray's Transfer & Storage (Davenport)	UT	2,480
Wellington Environmental (Iowa City)	AQ	1,000
Grinnell Properties, Inc.; David Hamilton (Grinnell)	UT	5,920
Kevin Wallerich (Keota)	SW/WW	500
# Frank Siemans (Wright Co.)	AFO	3,000
# Doug Wedemeyer (Adair Co.)	AFO	2,500
Waukon Golf and Country Club (Waukon)	UT	2,480
College Pro Painters (U.S.), Ltd. (Ames)	WW	10,000
Nevada, City of	WW	9,000
Mt. Pleasant, City of	WW	500
Lehigh Portland Cement Co. (Mason City)	WS	300
Richard and Charlotte Caves (Oskaloosa)	HC	10,000
Garry B. Pellett; Pellett Chemical Co.; Charles R. South	UT	2,645
Clifton Clark (Moorhead)	AQ/SW	1,500
# Kenneth Dahlhauser (Whittemore)	AFO	2,500
Peter Cook (Grand Mound)	AQ/SW	5,000
Stanley Siems (Hardin Co.)	AQ/SW	7,500
Caldwell Meats, Inc.; James Caldwell (Marshalltown)	UT	1,990
Walker Brothers Livestock Corp. (Washington)	WW	5,000
Fran Oil Company (Council Bluffs)	UT	3,500
# Iowa Select Farms, L.P.; Stockdale Sow Unit (Hardin Co.)	AFO	10,000
Sully Transport; Bice Oil Co.; Tim Bice (Guthrie Co.)	WW/HC	5,000
Schell Family Partnership (Boone Co.)	HC/SW	5,000
River City Development; Russell Hardy (Mason City)	UT	2,480
Chelsea, City of	WW	3,000
Lewis Contracting Co.; Randy Lewis (Red Oak)	WW	3,500
Carleton Transport Service, Inc. (Sioux Rapids)	WW/HC	5,000
TOTAL		398,345

The following administrative penalties were paid last month:

* Paul L. Nagle (Clear Lake)	AQ	100
*#Robert Fisher (Hamilton Co.)	AFO	100
* Winter Mobile Home Park (New Hampton)	WS	250
*#Roger Bockes, et. al. (Tama Co.)	AFO	100
* George Redman (Mitchellville)	AQ	1,500
* Allison, City of	AQ	500
* Allison, City of	AQ	500
M. Poe Investments, Inc.; Advanced Technologies Corp. (Cedar Falls)	AQ	2,500
St. Luke's Regional Medical Center (Sioux City)	AQ	2,000
The Farmers Co-Operative Society d/b/a Wesley Coop	AQ	1,500
Charles Butler (Hardin Co.)	AQ/SW	500
* Quality Mat Co., Inc. (Waterloo)	AQ	2,833
Timothy Eischeid (Carroll Co.)	SW	1,250
*#Cedar Valley Egg Farm (Benton Co.)	AFO	4,000
* Winter Mobile Home Park (New Hampton)	WS	350
# Lawrence Handlos (Audubon Co.)	AFO	1,700
# Kris King (Audubon)	AFO	300
TOTAL		16,983

The following penalties have been rescinded:

Trust Trucking Corp.; Jim and Brenda Huyser (Lovilia)	UT	840
Larry Cope, Susan E. Cope, Bill VanPelt (Carlisle)	WW	1,500

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Minden, City of

WW

3,000

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
ABC Disposal Systems Hiawatha (1)	Solid Waste	DNR Defendant	Defense	Petition Filed Answer Petitioner's Brief State's Brief Hearing	6/26/02 7/17/02 8/30/02 9/18/02 10/07/02
Affordable Removal, Inc.; Jeffrey Intelkofer Iowa City UPDATED	Asbestos (6) Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed Motion for Partial Summary Judgment Ruling Denying Motion Trial Date	3/20/00 4/19/00 2/26/01 4/20/01 3/03/03
Affordable Removal, Inc. Jeffrey Intelkofer Iowa City UPDATED	Asbestos (6) Air Quality	DNR Defendant	Defense	Petition Filed Answer Ruling Defendant's Notice of Appeal State's Brief Defendant's Brief Oral Arguments	12/28/00 1/18/01 7/09/01 7/30/01 6/06/02 6/07/02 12/03/02
Barton, Randy and Theresa Kellerton (4)	Air Quality	Open Burning	Order/Penalty	Referred	10/21/02
Bauer, Michael Davenport (6)	Underground Tank	Site Assessment	Order/Penalty	Referred Petition Filed State's Motion for Default Judgment	2/18/02 8/08/02 9/23/02
Bee Rite Tire Disposal, Inc. Rhodes, State Center (5)	Solid Waste	Solid Waste Violations	Order/Penalty	Referred	5/20/02
BCD Corporation Council Bluffs (4)	Wastewater	Operation Without Permit; Pollution Prevention Plan Violation	Order	Referred	7/22/02
Chatfield, Jerry d/b/a North Iowa Truck and Tractor Floyd (2)	Solid Waste Wastewater	Illegal Disposal; Operation Without Permit	Order/Penalty	Referred	10/21/02
Davis, Richard Wapello Co. (6)	Air Quality	Asbestos	Order/Penalty	Referred Petition Filed	8/19/02 11/27/02
Golden, Randy S.; R. Excavating Council Bluffs (4)	Wastewater	DNR Defendant	Defense	Petition Filed Answer	4/16/02 5/09/02
Huyser, James; Trust Trucking Lovilia UPDATED	(5) Underground Tank	Site Assessment	Referred to Attorney General	Referred Petition Filed Dismissed for Lack of Service Bankruptcy Petition Filed Tier I Assessment Completed by New Owner	11/21/94 4/18/96 9/20/96 9/20/96

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Tier II Assessment in Progress

Iowa Select Farms, L.P. Sow #7 Hamilton Co. (4)	Animal Feeding Operation	Prohibited Discharge Confinement	–	Referred to Attorney General	Referred	2/18/02
Johansen, Don d/b/a Bog's Bar Langworthy (1)	Drinking Water	Monitoring/Report ing- Bacteria		Order/Penalty	Referred	11/18/02
Johnson, Shelly Lynn d/b/a Oran Pub & Grill Fairbank (1)	Drinking Water	Monitoring/Report ing-Nitrate; Permit Renewal Fee; Public Notice		Order/Penalty	Referred	11/18/02
Kelso, John C. Worth Co. (2)	Animal Feeding Operation	Failure to Submit Plan		Order/Penalty	Referred	11/18/02
Ledenbach, Jim d/b/a Paper Recovery Cedar Rapids (1) UPDATED	Solid Waste	Illegal Disposal		Order/Penalty	Referred Petition State's Motion for Partial Summary Judgment Order Regarding Partial Summary Judgment	4/17/99 6/01/01 11/08/02 12/16/02
Lehigh Portland Cement Co. Mason City (2)	Air Quality	Construction Without Permit		Referred to Attorney General	Referred Petition Filed Trial Date Trial Continued	8/17/98 11/05/99 10/29/02
Lindahl, Don and Tim d/b/a Lindahl & Sons Salvage Boone (5)	Air Quality Solid Waste	Open Burning Illegal Disposal		Order/Penalty	Referred	5/21/01
Matrix Metal, LLC d/b/a Keokuk Steel Castings Keokuk (6)	Air Quality	Emission Limits		Referred to Attorney General	Referred	1/22/02
M-F Real Estate, Inc.; Fred Levell Carter Lake (4)	Hazardous Condition	Remedial Action		Order/Penalty	Referred	9/16/02
Mills County Landfill Association Mills Co. (4) UPDATED	Solid Waste	DNR Defendant		Defense	Petition Filed Intervention by Iowa Waste Systems State's Answer Intervenor's Motion for Summary Judgment State's Resistance Order Denying Intervenor's Motion for Summary Judgment	9/26/01 5/02/02 5/20/02 8/29/02 9/12/02 12/06/02
Mobile World L.C. Clinton (6)	Wastewater	Monitoring/Report ing; Operational Violations		Order/Penalty	Referred	11/18/02

Morgan, Ron d/b/a Action Jack's Paintball Park Polk Co. (5)	Solid Waste	Illegal Disposal	Order/Penalty	Referred	2/15/99
Nelson, Paul d/b/a Crestview Mobile Home Park Ames (5)	Wastewater	Discharge Limits	Order/Penalty	Referred Petition Filed Default Entered	2/19/01 3/20/02 11/12/02
Oberly, Marvin Burlington (6)	Wastewater	Operation Without Permit	Order/Penalty	Referred	7/15/02
Organic Technologies; Tim Danley; Ken Renfrow; Mike Danley Warren Co. (5) UPDATED	Solid Waste	Permit Violations	Referred to Attorney General	Referred Petition Filed Application for Temporary Injunction Temporary Injunction Trial Date Partial Judgment (Clean-up Order) Contempt Application Contempt Hearing Date	12/15/97 10/02/98 2/04/99 4/19/99 9/13/00 9/28/00 12/12/02 2/20/03
Schoenberr, R. B. d/b/a Long Branch Tavern Monmouth (1)	Drinking Water	Permit Renewal	Orders/Penalties	Referred Court Order Re-Referred	6/20/97 12/09/98 11/21/02
Smesrud, Shannon d/b/a Bubba's Bar & Grill Cresco (1)	Drinking Water	Monitoring/Report ing-Nitrate; Public Notice	Order	Referred	11/18/02
Vessel Systems, Inc. Dubuque (1)	Air Quality	Construction Without Permit	Order/Penalty	Referred	11/18/02
Wisconsin North, LLC d/b/a National Petroleum Co. UST #8606997 Clinton (6)	Underground Tank	Failure to Initiate Corrective Action- CDR	Referred to Attorney General	Referred	10/21/02

11/03/89	Bridgestone/Firestone, Inc.	5	Site Registry	HC	Tack	Hearing continued pending negotiations. Settlement proposed 8/96. Updated site evaluation to be submitted in 11/02.
7/02/90	Keokuk Savings Bank and Trust; Keokuk Coal Gas Site	6	Site Registry	HW	Tack	Hearing continued. Status report requested from land quality bureau on 12/1/99.
7/30/90	Key City Coal Gas Site; and Howard Pixler	1	Site Registry	HW	Tack	Decision appealed (Pixler) Site remediation completed. Status report requested from land quality bureau 12/1/99.
5/12/92	Paris & Sons, Inc.	1	Site Registry	HC	Wornson	Bankruptcy dismissed. Negotiations with creditor to enroll in LRP and complete site assessment.
4/05/93	MAPLETON, CITY OF	4	WW Operator Certification	WW	Hansen	7/01 City referred for Admin. Order for wastewater violations. 3/29/02 Dept. engineer reviewing information submitted by City. Status report requested. 12/02 Resolved. Letter to City agreeing to City's request for Grade 2 operator. Case closed.

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10/07/94	Titan Wheel International	6	Admin. Order/Penalty	WW	Hansen	1/31/02 – Dept. letter to company regarding resolution of appeal. 2/7/02 – Call from company attorney regarding letter. 3/29/02 – Dept. follow-up letter regarding prior letter.
9/20/95	FKI Industries, Inc.; Fairfield Aluminum, Inc.	6	Admin. Order	WW/HC	Tack	7/25/02 – Settlement offer sent. Response promised for October.
1/25/96	Hidden Valley Mobile Home Park	6	Admin. Order/Penalty	WW	Clark	9/12/02 – Tentative penalty settlement subject to correction of recent inspection deficiencies.
7/22/97	Robert P. Frees; Elizabeth R. Mathes	6	Admin. Order/Penalty	SW	Tack	Settlement reached. Cleanup underway.
1/16/98	Pilgrim Heights Camp		NPDES Permit Conditions	WW	Hansen	5/1/01 – WW staff contacted regarding resolution of appeal. 7/31/01 – Status report request from WW permits section. 9/28/01 – WW Permits Section contacted regarding resolution of appeal.
11/30/98	Robert Diehl	5	Admin. Order/Penalty	WW/WS	Murphy	5/1/01 – Preliminary engineering report approved 3/01. NPDES permit issued 3/28/02 with compliance schedule. Will monitor for compliance.
12/16/98	Richard Swailes		Permit Denial	FP	Clark	10/02/02 – Hearing continued indefinitely pending settlement negotiations.
1/13/99	Bernadette Ryan	1	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
3/04/99	Dayton, City of	2	Admin. Order/Penalty	WW	Murphy	2/14/02 Amended order. New facilities to be completed this year.
3/18/99	Ag Processing, Inc. (Sergeant Bluff)		Title V Operation Permit Conditions	AQ	Preziosi	7/02 – One issue of appeal remains to be settled.
4/26/99	Gerald and Judith Vens	6	Admin. Order/Penalty	FP	Clark	Negotiating before filing.
7/27/99	Affordable Asbestos Removal; Jeffry Intlekofer	6	Admin. Order/Penalty	AQ	Book	Hearing held 4/28/00. Judgment for DNR 11/20/00 - EPC affirmed ALJ's proposed decision. Petition for judicial review filed 12/28/00. Linn County District Court issued ruling and affirmed in part, remanded in part. Affordable has filed an appeal to the Supreme Court on the ruling. 8/01 - Company filed a motion to stay Supreme Court portion until the ALJ rules on the remanded portion. Supreme Court denied motion; ALJ will now rule on the remanded portion of the decision, awaiting the ALJ decision. ALJ decision cut penalty in half – remainder of case on appeal with Supreme Court. Case being handled by AG. DNR involvement is over. Case still with Supreme Court. Oral arguments set for 12/3/02.
9/08/99	Linwood Mining & Minerals	6	Permit Conditions	AQ	Preziosi	Settlement close.
9/10/99	Linwood Mining & Minerals	6	Permit Denial	AQ	Preziosi	Negotiating before filing.
10/22/99	Robert Fisher	2	Admin. Order/Penalty	AFO	Clark	9/30/02 – Penalty settlement offer accepted. Monthly installments commence 10/30/02.
11/15/99	Rocky Knoll Mobile Home Park	2	Admin. Order/Penalty	WS	Tack	Compliance achieved. Penalty settled for \$3,000. Payment plan initiated.
12/01/99 12/08/99	Iowa Select Farms, L.P./AG Waste Consultants, Inc.	2	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
4/14/00	Stateline Cooperative	2	Admin. Order	HC	Wornson	Tier 2 report submitted 11/28/00. High risk. review for further corrective action.
4/24/00	Carroll, City of	4	Permit Conditions	WW	Hansen	9/9/02 Letter received from city engineer regarding compliance schedule and appeal issues. 10/24, 25/02 Letters received from City engineer regarding appeal and WWTF improvements. 12/02 WW permit staff requested to draft amended permit to resolve appeal.

4/26/00	State Wide Metal Recycling, Inc.; Fred Bovee	5	Admin. Order	SW/HC	Tack	Delaware Ave. site clean-up is complete. Broadway site is nearly completed. Final waste removal scheduled for 7/02.
6/14/00	Quality Mat Co., Inc.	1	Admin. Order/Penalty	AQ	Book	4/3/01 Decision affirming the order. 5/21/01 EPC finalized decision. Settled. 8/01 Admin. Consent Order signed by facility for payment plan. Signed order received. First payment received 12/21/01. Second payment received 12/15/02.
7/13/00	Dan Witt	6	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
8/11/00	Twin Anchors RV Resort	5	Admin. Order/Penalty	WW	Tack	Construction permit issued 10/24/02. 90-days to complete construction. Penalty to be negotiated after compliance is achieved.
8/11/00	Kiefer Built	2	Admin. Order/Penalty	AQ	Preziosi	Settled. Penalty payment plan established. 5/02 – First two penalty payments received.
9/05/00	Thomas Kronlage	1	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
9/27/00	Farmers Cooperative Society (Titonka)	2	Admin. Order Penalty	AQ	Preziosi	Settled. Awaiting return of signed consent amendment.
10/02/00	Agriprocessors, Inc.	1	Variance Denial		Murphy	3/1/02 – City/industry progressing with facility improvements.
10/03/00	Friesen of Iowa, Inc.	3	Admin. Order/Penalty	AQ	Preziosi	Hearing set for 1/21/03.
10/06/00	Linwood Mining & Mineral Corp.	6	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
10/06/00	Duane Crees	6	Admin. Order/Penalty	AQ/SW	Tack	Default judgment to be entered in favor of Dept. Appeal closed. Penalty due.
10/20/00	AGP, Ag Processing	6	Permit Conditions	AQ	Preziosi	AGP has sold this facility. Checking with new owner regarding interest in appeal issue.
11/20/00	Randy Golden d/b/a R. Excavating	4	Admin. Order/Penalty	WW	Tack	Petition for judicial review filed. AG to handle.
11/22/00	Fansteel-Wellman Dynamics	4	Permit Conditions	SW	Tack	Permit amended to resolve appeal. Awaiting dismissal by Fansteel.
12/01/00	Postville, City of	1	Admin. Order	WW	Murphy	3/1/02 – City/industry progressing with facility improvements.
12/05/00	Braddyville, City of	6	Admin. Order/Penalty	WW	Hansen	1/25/02 – Dept. settlement offer to City Attorney. 2/1/02 – City Attorney accepted offer. 3/02 – Settled. Consent order to be entered into. 7/1/02 – Dept. letter with consent order to city attorney. 7/22/02 – Consent order signed by Director and issued. 7/29/02 – City attorney sent motion to dismiss appeal to ALJ. 8/5/02 – ALJ issued order closing appeal. Penalty payment due 10/31/02.
2/27/01	Floyd Kroeze	2	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
4/13/01	West Central Cooperative	4	Permit Denial	AQ	Preziosi	Negotiations continue.
4/16/01	Richard Thompson; Thompson Auto Parts	5	Admin. Order/Penalty	SW/WW	Tack	Hearing continued to 1/13/03. Site clean-up underway.
5/29/01	Wayne Wheatley fdba Wheatley Auto and Truck Service	3	Admin. Order/Penalty	UT	Wornson	Settlement agreement. Hearing continued. Compliance initiated.
5/29/01	Burco Farms, Inc.	1	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
6/18/01	Noble Ford Mercury	5	Admin. Order/Penalty	WW	Hansen	7/19/01 – Letter sent to company regarding appeal. 8/15/01 – Company letter to Dept. agreeing to schedule in the order.
6/19/01	Eagle Investors, LLP d/b/a Manson Ampride	4	Admin. Order/Penalty	UT	Wornson	Settled. Compliance achieved, penalty settled. Awaiting penalty payment.

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6/19/01	John Hoth	5	Admin. Order/Penalty	UT	Wornson	Compliance completed, negotiating penalty settlement.
6/27/01	Tama Beef Packing, Inc.	5	Admin. Order/Penalty	SW/WW	Hansen	11/20/01 – Tama Beef filed for bankruptcy. Hearing continued by ALJ due to automatic stay provision. 3/14/02 – Notice received from bankruptcy court regarding proposed assumption of lease for plant by AgriProcessors, Inc.
7/02/01	Bulk Petroleum Corp. d/b/a Citgo	5	Admin. Order/Penalty	UT	Wornson	Negotiating before filing.
7/10/01	Midway Oil Co. (West Branch – 8603858)	6	Admin. Order/Penalty	UT	Wornson	Midway has failed to sign settlement agreement and is in breach of oral agreement. Hearing set for 1/6/03.
7/10/01	Midway Oil Co. (Davenport – 8602775)	6	Admin. Order/Penalty	UT	Wornson	Hearing set for 1/6/03.
8/09/01	Nevada, City of	5	Admin. Order/Penalty	UT	Wornson	Compliance achieved. Negotiating penalty or SEP.
8/13/01	ABC Disposal Systems, Inc.	1	Admin. Order/Penalty	SW	Tack	4/15/02 – Proposed decision upheld by EPC. Petition for judicial review filed. AG to handle.
8/15/01	Trajet Products, Inc.	4	Admin. Order/Penalty	AQ	Preziosi	Settled. Awaiting penalty payment.
8/17/01	Long Branch Maintenance Corp.	5	Admin. Order/Penalty	WW	Hansen	Informal meeting held at FO 4 on 9/17/01. Tentative agreement reached on revised schedule. 3/27/02 – Dept. settlement offer with schedule for improvements. 4/29/02 – Letter received from WS attorney regarding settlement. 11/02 – Proposed consent order drafted. Waiting for interim limits from WW permits to attach to order.
8/21/01	Earlham, City of	5	Admin. Order/Penalty	WW	Hansen	Informal meeting held at FO 5. 10/31/01 – Dept. settlement offer to City. 11/21/01 – City attorney responded to Dept. settlement offer with counter offer. 11/29/01 – Dept. follow-up letter to City. 12/18/01 – City attorney responded to Dept. offer.
9/25/01	Lawrence Lenertz	5	Admin. Order/Penalty	UT	Wornson	Compliance initiated except penalty payment. Negotiating penalty.
10/02/01	Daryl Larson	6	Admin. Order	AFO	Clark	Negotiating before filing.
10/02/01	Lawrence "Bub" Korver d/b/a Korver Development Co.	3	Admin. Order/Penalty	WW	Tack	Administrative consent order executed to settle all issues. Appeal dismissed. Awaiting penalty settlement payment.
11/01/01	Feeders Grain & Supply, Inc.; James Curtis; Carolyn Curtis	4	Admin. Order/Penalty	WW/HC	Wornson	Hearing continued. Settlement agreement signed. Assessment submitted. Negotiating penalty.
11/07/01	Sir Fredericks, Inc.	5	Admin. Order/Penalty	UT	Wornson	Tier 2 submitted. CADR required. Negotiating penalty.
11/26/01	LeMars, City of	3	Admin. Order/Penalty	WW	Hansen	8/22/02 – Informal meeting held to discuss settlement.
11/27/01	Dallas County Care Facility	5	Admin. Order/Penalty	WW	Hansen	Negotiating before filing.
12/10/01	Max and Phyllis Graber; Burdean Graber	6	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
12/17/01	Keith Stoterau; Hopp Construction Co., Inc.	4	Admin. Order/Penalty	WW	Murphy	Negotiating before filing.
12/24/01	Joe & Mary Schuster	2	Admin. Order/Penalty	AQ/SW	Preziosi	Settled. Penalty payment plan established.
1/04/02	Negus-Sons, Inc. (Whispering Woods)	4	Order/Penalty	WW	Murphy	Negotiating before filing.
1/09/02	Roger Eblen; Roger Eblen Development; Duane Menke	4	Order/Penalty	WW	Murphy	Negotiating before filing.
1/14/02	George Redman	5	Order/Penalty	AQ	Preziosi	Settled. Penalty payment plan established.

1/18/02	Robert Ward	6	Order/Penalty	WW	Tack	Negotiating before filing.
1/23/02	Clearview Mobile Home Park	6	Permit Conditions	WW	Hansen	3/29/02 – Dept. letter to MHP attorney requesting more information on appeal issues. 9/02 – Letter received from MHP attorney.
1/29/02	Partners Four Investments, Inc.	2	Order/Penalty	UT	Wornson	Tier 2 submitted. Negotiating penalty.
1/29/02	Van Meter Development Corp. (Whispering Pines)	5	Order/Penalty	WW	Murphy	ALJ decision 10/18/02. 11/02 - No appeal of decision. Case closed.
2/08/02	ADM – Clinton	6	Permit Conditions	AQ	Preziosi	Requesting additional materials to review.
2/20/02	Storm Lake, City of	2	Permit Conditions	WW	Hansen	Hearing continued to 9/19/02 to allow City to submit updated report to Dept. for review. 7/5/02 – Dept. received letter from City attorney and City engineer; under review by WW permits section. Hearing rescheduled for 12/20/02.
3/13/02	Sapp Bros. Truck Stops, Inc.	4	Order/Penalty	WS	Murphy	11/01/02 ALJ decision received. No appeal of decision. Case closed.
3/14/02	Brett George d/b/a Cedar Valley Tree Service	6	Order/Penalty	AQ/SW	Tack	8/16/02 – First penalty payment received. Final payment due 9/15/02.
3/20/02	Mike Messerschmidt	6	Order/Penalty	AQ/SW	Book	Hearing set for 1/22/03.
4/11/02	William Habhab	2	Order/Penalty	SW	Tack	Site enrolled in EPA Brownfield Pilot Project by City of Ft. Dodge. Site testing completed 10/02. Remediation/clean-up scheduled for 2003.
4/12/02	Well's Dairy, Inc.	3	Order/Penalty	WW	Hansen	4/26/02 – Letter sent to company attorney regarding request for stay of order. 5/21/02 – Letter received from company attorney. 6/13/02 – Dept. settlement response to Co. attorney. 7/02 – Dept. letter to Co. attorney. 8/22/02 – Informal meeting held to discuss settlement.
4/17/02	Lawrence Handlos	4	Order/Penalty	AFO	Clark	12/24/02 Settled. 12/31/02 - Penalty payment received. Case closed.
4/17/02	Kris King	4	Order/Penalty	AFO	Clark	12/24/02 Settled. 12/31/02 -Penalty payment received. Case closed.
4/30/02	Dennis Frederickson; Mark Frederickson	4	Order/Penalty	AQ/SW	Preziosi	10/04/02 deadline to respond to DNR letter. 11/02 – No response. To be set for hearing.
5/01/02	Piper Motor Company, Inc.; Bruce Piper d/b/a Super Clean Car Wash	6	Order/Penalty	WW	Murphy	Hearing re-set for 2/14/03.
5/02/02	Minden, City of	4	Order/Penalty	WW	Hansen	Amended order to be issued to resolve appeal. 9/3/02 Letter from city engineer regarding project and new schedule. 10/30/02 Letter and draft order to City attorney for review. 11/14/02 Letter from City attorney requesting schedule changes. 11/22/02 DNR letter with revised consent order including requested changes. 12/27/02 Amended order to be signed by Director.
5/07/02	Jones County Conservation Board; Central Park	1	Order/Penalty	WS	Hansen	Negotiating before filing.
5/08/02	James and Retha Wilson	4	Order/Penalty	UT	Wornson	Negotiating before filing.
5/08/02	Swine Graphics Enterprises, L.P., ADL V Sow Farm	5	Order/Penalty	AFO	Murphy	5/17/02 – Sent to DIA. To be submitted to ALJ by stipulation.
5/09/02	Arthur, City of	3	Order/penalty	WW	Hansen	Negotiating before filing.
5/10/02	Wellington Environmental	6	Order/Penalty	AQ	Book	Will resolve with other Wellington case. Appeal under consideration by Company.

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5/13/02	Avery Feeder Pig Co.	2	Order/Penalty	AFO	Clark	Negotiating before filing.
5/23/02	Emer Carlson	6	Order/Penalty	AQ	Book	Settled. Consent amendment agreed upon.
5/30/02	Paul Nagle	5	Order/Penalty	AQ	Book	Consent amendment agreed to with reduced penalty and payment plan. Payments on schedule.
6/03/02	Richard Caves; Charlotte Caves	5	Order/Penalty	HC	Tack	11/02 - Richard Caves' bankruptcy pending. Negotiating resolution.
6/14/02	Deer Track Subdivision; F & J Enterprises	4	Order/Penalty	WW	Murphy	Negotiating before filing.
6/17/02	Allison, City of	2	Order/Penalty	AQ	Preziosi	Settled. Penalty payment plan established.
6/27/02	Northwest Iowa Solid Waste Agency	3	Stipulated Penalties	SW	Tack	9/10/02 - Settlement offer sent.
7/02/02	ITWC	5	Order/Penalty	AQ	Preziosi	Negotiating before filing.
7/02/02	Wellington Environmental (Iowa City)	6	Order/Penalty	AQ	Book	Will resolve with other Wellington case. Appeal under consideration by Company.
7/05/02	Marion Murray; Murray Transfer and Storage	6	Order/Penalty	UT	Wornson	Tank closure completed.
7/09/02	Waukon Golf & Country Club	1	Order/Penalty	UT	Wornson	Partial compliance achieved. Refer to DIA.
7/10/02	Kevin Wallerich	6	Order/Penalty	SW/WW	Tack	9/26/02 - Amended order issued.
7/15/02	Grinnell Properties, Inc.; David Hamilton	5	Order/Penalty	UT	Wornson	Hearing set for 1/8/03.
7/18/02	Mt. Pleasant, City of	6	Order/Penalty	WW	Hansen	Negotiating before filing. \$500 penalty payment received for uncontested portion. 12/02 City requested to submit revised report.
7/22/02	Thombert, Inc.	5	Order/Penalty	AQ	Preziosi	Settled. Awaiting penalty payment.
7/23/02	Doug Wedemeyer	4	Order/Penalty	AFO	Murphy	Negotiating before filing.
7/24/02	Frank Siemens	2	Order/Penalty	AFO	Clark	Negotiating before filing.
7/31/02	Nevada, City of	5	Order/Penalty	WW	Murphy	1/01/03 Settlement close.
7/31/02	College Pro Painters	5	Order/Penalty	WW	Murphy	1/01/03 Settled. Settlement document in process.
8/01/02	Poweshiek Water Assn.	1	ORDER/PENALTY	WW	Murphy	1/01/03 Settled. SEP payment received. Case closed..
8/08/02	Jason Strike	1	Order/Penalty	AFO	Murphy	1/01/03 Settled. On payment schedule.
8/12/02	Garry B. Pellett; Pellett Chemical Co., Inc.	4	Order/Penalty	UT	Wornson	Late appeal. Compliance initiated.
8/15/02	Lehigh Portland Cement	2	Order/Penalty	WS	Clark	Negotiating before filing.
8/23/02	Clifton Clark	4	Order/Penalty	AQ/SW	Tack	Clean-up under way. Significant progress made as of 11/14/02 inspection. Negotiating next deadline.
8/25/02	Kenneth Dahlhauser	2	Order/Penalty	AFO	Clark	Negotiating before filing.
9/03/02	Peter Cook	6	Order/Penalty	AQ/SW	Book	Negotiating before filing.
9/06/02	Mitchell Co. Board of Supervisors	2	Order/Penalty	AQ/SW	Book	Settlement reached. 11/02 - Consent amendment issued..
10/01/02	Stan Siems	2	ORDER/PENALTY	AQ/SW	Tack	Negotiating before filing.

10/02/02	Sioux City, City of	3	PERMIT CONDITIONS	FP	Clark	Negotiating before filing.
10/16/02	Charles Butler	2	ORDER/PENALTY	AQ/SW	Book	Settled. 12/09/02 Penalty paid. Consent amendment issued. Case closed.
10/18/02	M. Poe Investments; Advanced Technologies	1	ORDER/PENALTY	AQ	Book	Settled. 12/09/02 Penalty paid. Consent amendment issued. Case closed.
10/21/02	Taylor Oil Co., Inc.; Taylor Quik-Pik	4	ORDER/PENALTY	AQ	Book	11/02 Settled. Consent amendment issued. Awaiting penalty payment.
10/21/02	Caldwell Meats, Inc.; James Caldwell	5	ORDER/PENALTY	UT	Wornson	Negotiating before filing.
10/24/02	Harold L. Foster; Carolyn Foster; Glolin, Inc.	4	ORDER	UT	Wornson	Fosters appealed. Glolin, Inc. and Webers did not. Tank closure completed. Negotiate penalty.
11/04/02	Walker Bros. Livestock Corp.	6	ORDER/PENALTY	WW	Murphy	Negotiating before filing.
11/12/02	Audubon, City of	4	ORDER/RESTITUTION CLAIM	WW	Murphy	Negotiating before filing.
11/12/02	Sully Transport, Inc.; Bice Oil Co.; Tim Bice	4	ORDER/PENALTY	WW/HC	Wornson	Negotiating before filing.
11/13/02	Fran Oil Co.	4	ORDER/PENALTY	UT	Wornson	Compliance achieved. Negotiating penalty.
11/13/02	Iowa Select Farms, L.P., Stockdale Sow Unit	2	ORDER/PENALTY	AFO	Murphy	Negotiating before filing.
11/18/02	Randy Lewis & Lewis Contracting Co.	4	ORDER/PENALTY	WW	Murphy	Negotiating before filing.
11/22/02	Schell Family Partnership	5	ORDER/PENALTY	SW/HC	Tack	Negotiating before filing.
11/27/02	River City Development; Russell Hardy	2	ORDER/PENALTY	UT	Wornson	Appeal untimely. Tier 1 compliance initiated.
11/27/02	Chelsea, City of	5	ORDER/PENALTY	WW	Murphy	Negotiating before filing.
12/09/02	Carleton Transport Service, Inc.	3	ORDER/PENALTY	WW/HC	Murphy	New case. 12/31/02 Settlement offer.

During the period December 1, 2002 through December 31, 2002, 4 reports of wastewater by-passes were received. A general summary and count by field office is presented below. This does not include by-passes resulting from precipitation events.

Month	Total	Avg. Length (days)	Avg. Volume (MGD)	Sampling Required	Fish Kill
October '02	5(9)	1.4	.0291	4	0(0)
November '02	3(4)	1	0.00833	2	0(0)
December '02	4(3)	1	.06875	0	0(0)
January '02	4(5)	1	.007485	1	0(0)

February '02	5(2)	1.2	.012	2	0(0)
March '02	2(10)	1	.000125	0	0(0)
April '02	5(3)	1	0.50215	2	0(0)
May '02	2(10)	5.5	0.052	1	0(0)
June '02	3(6)	1	0.09667	1	0(0)
July '02	6(6)	2	0.15828	4	0(0)
August '02	3(9)	1	.0069	0	0(1)
September '02	3(5)	1	.13433	2	1(0)

(numbers in parentheses for same period last year)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
1	0	0	0	1	2

GENERAL DISCUSSION

NEXT MEETING DATES

ADJOURNMENT

With no further business to come before the Environmental Protection Commission, Chairperson Murphy adjourned the meeting at p.m., Monday, , 2003.

Jeffrey R. Vonk, Director

January 2003

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Kathryn Murphy, Chair

Rita Venner, Secretary

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